

# Exhibit 4



1 R. LOMBARDO

2  
3  
4 May 4, 2020

5 9:05 a.m.

6  
7 Videoconference deposition of RICHARD A.  
8 LOMBARDO in Cleveland, Ohio, pursuant to notice  
9 before Rachel F. Gard, Illinois Certified  
10 Shorthand Reporter, Registered Professional  
11 Reporter, Certified LiveNote Reporter,  
12 Certified Realtime Reporter.  
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25

1 R. LOMBARDO

2 A P P E A R A N C E S:

3 McGUIREWOODS

4 Attorneys for Plaintiff

5 800 Canal Street

6 Richmond, Virginia 23219

7 BY: RODNEY SATTERWHITE, ESQ.

8 HEIDI SIEGMUND, ESQ.

9 (Videoconference appearance)

10  
11  
12  
13  
14 KOEHLER FITZGERALD

15 Attorneys for Defendant

16 1111 Superior Avenue East

17 Cleveland, Ohio 44114

18 BY: CHRISTINE COOPER, ESQ.

19 (Videoconference appearance)

R. LOMBARDO

## I N D E X

## WITNESS

## PAGE

RICHARD LOMBARDO

Examination by Mr. Satterwhite

7

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1 R. LOMBARDO

2 (Witness sworn.)

3 WHEREUPON:

4 RICHARD A. LOMBARDO,  
5 called as a witness herein, having been first  
6 duly sworn, was examined and testified as  
7 follows:

8 EXAMINATION

9 BY MR. SATTERWHITE:

10 Q. Good morning, Mr. Lombardo.

11 A. Good morning, sir.

12 Q. As you know, my name is Rod  
13 Satterwhite. I represent Chmura Economics &  
14 Analytics in the lawsuit against you.

15 A. Yes.

16 Q. This is obviously a little bit  
17 different because of the video. But before we  
18 start, I want to cover a couple of rules that  
19 will help Rachel, our court reporter, and both  
20 of us throughout the day.

21 If you need a break, just let us  
22 know and you can take one at any time. If you  
23 don't understand any of my questions, just ask  
24 me to rephrase it and I will certainly do so.  
25 Please avoid answering questions by nodding



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2 your head. It makes it very difficult for the  
3 court reporter to take that down, especially on  
4 video.

5 And most importantly probably for  
6 this format, if you will try to allow me to  
7 finish my question and not interrupt me, I will  
8 try to allow you to finish your answer and not  
9 interrupt you.

10 Does that all make sense?

11 A. Yes, it does.

12 Q. Would you state your full name for  
13 the record.

14 A. Richard Anthony Lombardo.

15 Q. And what's your home address?

16 A. 8341 Sheltered Cove, Mentor, Ohio  
17 44060.

18 Q. Mr. Lombardo, have you ever  
19 testified under oath before?

20 A. I have not.

21 Q. Is there any reason today that you  
22 wouldn't be able to truthfully answer my  
23 questions, such as any medication that you  
24 might be taking or any physical condition that  
25 you might be undergoing?

1 R. LOMBARDO

2 A. No.

3 Q. What did you do to prepare for your  
4 deposition today, Mr. Lombardo?

5 A. Spoke with my attorney.

6 Q. Anything else?

7 A. No.

8 Q. You started work at Chmura in  
9 February of 2015; is that right?

10 A. Yes.

11 (Plaintiff's Exhibit A marked for  
12 identification.)

13 Q. I am going to display an exhibit  
14 that I'd like you to take a look at. It has  
15 been marked as Plaintiff's A. Take a look at  
16 that document and tell me when you've had a  
17 chance to review it.

18 A. Yes, I am familiar with this  
19 document.

20 Q. What is it?

21 A. It is my contract.

22 Q. And if you look over on page 2, can  
23 you just confirm that that's your signature at  
24 the bottom of the page?

25 A. Yes.

1 R. LOMBARDO

2 Q. About halfway down the first page,  
3 Mr. Lombardo, there's a section that says  
4 Compensation Overview. Do you see that?

5 A. Yes.

6 Q. It indicates an annual base salary  
7 of \$55,000 in year 1, and \$50,000 in years 2  
8 plus; is that correct?

9 A. Yeah.

10 Q. Was there any discussion around the  
11 time that you signed this document about how  
12 many hours per week you would be expected to  
13 work at Chmura?

14 A. No. Not that I recall.

15 Q. Did you ask anyone any questions  
16 when you first became employed at Chmura about  
17 how many hours per week you were expected to  
18 work?

19 A. No, I was under the assumption it  
20 was a, you know, 40-hour minimum workweek.

21 Q. Did anybody suggest to you at that  
22 time that your salary would vary depending on  
23 the number of hours that you worked?

24 A. No.

25 Q. And the other part of your

1 R. LOMBARDO

2 compensation involved commissions on sales,  
3 correct?

4 A. Yes.

5 Q. Did anybody at Chmura suggest to you  
6 that your commission rate would change  
7 depending on the number of hours per week that  
8 you worked?

9 A. No.

10 Q. What was your understanding of when  
11 commissions would be paid?

12 A. Once the contract was signed, I  
13 would be paid the end of the following month.

14 Q. And the payment that you received in  
15 a given month was for all contracts that were  
16 signed in the previous month; is that correct?

17 A. Yes. Also, it could be renewals as  
18 well that may not have signed a contract that  
19 month but maybe from the previous year.

20 Q. All right. But in terms of the time  
21 period that the commission payment covered, it  
22 covered activities that occurred in the prior  
23 month, correct?

24 A. Yes.

25 Q. The commission payment was not

1 R. LOMBARDO

2 broken down by week?

3 A. Correct.

4 Q. Over on page 2 of this offer letter,  
5 or I'm sorry, the document that's been marked  
6 as Exhibit A, if you look at the paragraph  
7 about the middle of the page, it starts out  
8 with the phrase "Chmura hopes." Do you see  
9 that?

10 A. Yes.

11 Q. And the next-to-the-last line in  
12 that paragraph says: This letter should not be  
13 construed as an employment contract.

14 Do you see that?

15 A. Yes.

16 Q. What did you understand that  
17 language to mean at the time you signed this?

18 MS. COOPER: Objection. Calls for  
19 legal conclusion. But you can answer.

20 A. I'm not sure what I thought at the  
21 time.

22 Q. At some point, did you conclude that  
23 this was a contract?

24 MS. COOPER: Objection.

25 Q. You can answer.

1 R. LOMBARDO

2 MS. COOPER: You can answer.

3 A. Yes.

4 Q. At what point in time did you reach  
5 that conclusion?

6 A. 2017.

7 Q. So you had not reached that  
8 conclusion at the time you signed this  
9 document?

10 A. Correct.

11 (Plaintiff's Exhibit B marked for  
12 identification.)

13 Q. All right. I'm going to pull up  
14 another exhibit here, so just bear with me.  
15 Mr. Lombardo, I'm going to show you a document  
16 that is being marked as Plaintiff's Exhibit B.  
17 And after you've had a chance to look at it,  
18 tell me if you recognize it?

19 A. Yes, I do.

20 Q. And just to make sure that the  
21 system is working properly, are you and your  
22 counsel able to page through the document on  
23 your own once it's displayed?

24 A. Yes, sir.

25 Q. Okay. Let me know obviously if

1 R. LOMBARDO

2 there's a problem with that because I want you  
3 to be able to see the whole thing.

4 A. It's only -- I'm sorry, sir, it's  
5 only showing the first page. If I try to  
6 scroll down, it's only the first page.

7 Q. All right.

8 A. Maybe it's user error on my part.

9 MR. SATTERWHITE: Let's go off the  
10 record for a second, Rachel, while we try  
11 to get this worked out.

12 (A short break was taken.)

13 Q. All right. So, Mr. Lombardo, can  
14 you now see all of the pages of the exhibit  
15 that you want to look at?

16 A. Yes, sir.

17 Q. Great. Can you tell me if you  
18 recognize Exhibit B?

19 A. Yes, sir.

20 Q. What is that?

21 A. The noncompete.

22 Q. And if you look over on page 6 of  
23 the document, is that your signature?

24 A. Yes.

25 Q. And you signed this document the

1 R. LOMBARDO

2 same day you signed the offer letter that was  
3 marked as Exhibit A, correct?

4 A. Yes, sir.

5 Q. Did you read this agreement before  
6 you signed it?

7 A. I'm sure I perused through it.

8 Q. All right. Let me direct your  
9 attention to page 1, and the section about  
10 midway down the first page that starts with the  
11 word "Confidentiality." Do you see that?

12 A. Yes.

13 Q. All right. I'm not going to read it  
14 out loud. But would you please read the first  
15 sentence of the second paragraph there,  
16 beginning with the word "Accordingly"?

17 A. Accordingly, employee shall not,  
18 during the -- sorry. Let me scroll.

19 Accordingly, employee shall not  
20 during the term of his/her employment and  
21 thereafter regardless of the reason for his/her  
22 termination reveal or disclose to any person  
23 outside of the company or use for his/her own  
24 benefit or the benefit of any other person or  
25 entity any confidential or proprietary



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2 information concerning the business or affairs  
3 of the company or concerning the company's  
4 customers, clients, or employees.

5 Q. And I'm sorry. I meant to be clear  
6 that you could have just read it to yourself.

7 A. Oh, okay.

8 Q. But I'm not trying to make you read  
9 to me.

10 A. It's like 7th grade reading class.  
11 Got a little scared there.

12 Q. I won't do that to you.

13 What did you understand that  
14 provision of this agreement to mean?

15 MS. COOPER: Objection. Go ahead  
16 and answer, if you can.

17 A. That I couldn't, you know, give any  
18 proprietary information of the company away.

19 Q. And did you have any understanding  
20 of what was included in the definition of  
21 proprietary information as you just used it?

22 A. No.

23 Q. Did you ask anybody any questions  
24 about this?

25 A. I did not.

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2 Q. During your employment with Chmura,  
3 did you have access to any information that you  
4 considered to be confidential?

5 A. Yes.

6 Q. And what categories of information  
7 did you consider to be confidential?

8 A. I would say customer, customers,  
9 pricing of customers, our roadmap of what we  
10 have rolling out or what we had rolling out or  
11 they had rolling out.

12 Q. And other than pricing, is there  
13 anything about Chmura's customers that you  
14 considered to be confidential information?

15 A. Yeah, I would say their renewal  
16 date, you know, things in their contracts  
17 potentially.

18 Q. Anything else that you considered  
19 confidential at your employment with Chmura?

20 A. Not that I can think of off the top  
21 of my head.

22 Q. I'm going to move us to paragraph 4  
23 on page 4 of Exhibit B, and it says Termination  
24 and Return of Property. Do you see that?

25 A. Yes.

1 R. LOMBARDO

2 Q. Take as much time as you need to  
3 review this, but what I'm going to ask you to  
4 do is read to yourself the very last sentence  
5 of paragraph (a). And that sentence begins  
6 with the phrase, "Upon the termination."

7 Do you see that?

8 A. Yes. I am going to read that.

9 Q. Yeah, tell me when you've had a  
10 chance.

11 A. I've read that.

12 Q. What did you understand that  
13 sentence to mean, Mr. Lombardo?

14 A. To return any company property once  
15 I am no longer with the company.

16 Q. And what about the phrase  
17 "immediately and without demand," what did you  
18 understand that to mean?

19 MS. COOPER: Objection. Go ahead  
20 and answer.

21 A. I would assume right away under any  
22 circumstance.

23 Q. And I'll try to shortcut this. The  
24 same phrase "immediately and without demand"  
25 also appears in subparagraph (b).

1 R. LOMBARDO

2 Do you see that?

3 A. Yes.

4 Q. And did you have the same  
5 understanding of that phrase with respect to  
6 paragraph (b) that you just described with  
7 respect to paragraph (a)?

8 A. Yes.

9 Q. All right. I'm going to go  
10 backwards here, Mr. Lombardo, to page 3,  
11 paragraph 3. This is a section entitled:  
12 Covenants Not to Compete or Interfere.

13 Do you see that?

14 A. Yes.

15 Q. Do you remember whether you read  
16 this section before signing the agreement?

17 A. I do not remember.

18 Q. Other than counsel, did you discuss  
19 this language with anybody at the time you  
20 signed it?

21 A. No. Not that I recall.

22 Q. Do you recall asking anybody at  
23 Chmura any questions about this provision?

24 A. No.

25 Q. Did you believe that -- and again

1 R. LOMBARDO

2 I'm talking about at the time you signed the  
3 document -- did you believe that you could work  
4 for a competitor after your employment with  
5 Chmura ended?

6 A. No.

7 Q. And did you believe that you could  
8 solicit business from your Chmura customers  
9 after your employment ended?

10 MS. COOPER: Objection as to form.  
11 Go ahead.

12 MR. SATTERWHITE: I didn't hear the  
13 objection.

14 MS. COOPER: I said objection to the  
15 form, but go ahead and answer.

16 MR. SATTERWHITE: Okay. Sure.

17 A. I would think, my understanding  
18 would depend what it was I was selling. If I  
19 was selling toilet paper, for example, I was  
20 under the assumption you can if it's a totally  
21 different product.

22 Q. Fair enough. Was it your impression  
23 you were restricted from soliciting your Chmura  
24 clients for the purpose of selling them  
25 products that were competitive with Chmura?

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2 A. Yes.

3 Q. What job titles did you hold through  
4 your career at Chmura?

5 A. Account manager and senior account  
6 manager.

7 Q. So when you were hired, you were an  
8 account manager?

9 A. Yes, sir.

10 Q. And then after how long did you  
11 become a senior account manager?

12 A. I'm not sure on the exact time  
13 frame. I believe it was sometime in 2017, but  
14 I'm not sure of the exact month.

15 Q. And can you walk me through the  
16 people that were your direct supervisor during  
17 your period of employment?

18 A. Yes. Leslie Peterson. Kyle West.  
19 Ethan Trombley. Greg Chmura. Curtis Monk.  
20 Eli Auerbach.

21 Q. And I'm just going through this  
22 list, Mr. Lombardo, and ask you approximate  
23 times during which each one of these  
24 individuals acted as your supervisor.

25 So starting with Leslie Peterson?

1 R. LOMBARDO

2 A. From when I started there in  
3 February of 2015 until, my recollection would  
4 have been, early 2017.

5 Q. How about Kyle West?

6 A. Kyle West took over from Leslie. He  
7 was, my best assumption we'll say maybe  
8 January 2017 through November-ish of 2017.

9 Q. And Mr. Trombley?

10 A. Following that, I think there was a  
11 break where I just reported to Greg, I believe,  
12 for 2 to 3 months. And I think Ethan was then  
13 promoted to overseeing the sales team or be our  
14 direct link, maybe January-ish. Could be  
15 December of 2017, somewhere in that area -- I'm  
16 sorry, through November of 2018.

17 Q. And how about Curtis Monk?

18 A. It was a short time period. I think  
19 it was before Christmas. Again December  
20 through maybe February-ish of 2019.

21 Q. And after Mr. Monk, was there a  
22 period when you went back to reporting to Greg  
23 Chmura?

24 A. Yes.

25 Q. What was that period?

1 R. LOMBARDO

2 A. From whenever Greg left to when they  
3 hired Mr. Auerbach on, I believe, April 1st or  
4 April 6th.

5 Q. And then Mr. Auerbach was the  
6 supervisor for the remainder of your time?

7 A. Yes.

8 Q. What products did you sell for  
9 Chmura?

10 A. JobsEQ, LaborEQ, RPI, employee firm  
11 lists. Not sure if I actually ever sold a  
12 Career Concourse or not.

13 Q. Can you give me a brief description  
14 of what JobsEQ does?

15 A. Yeah, provides online access to  
16 employment, wages, occupations, industry, skill  
17 level. A lot of different economic and labor  
18 data information all in one easy-to-use place.

19 Q. Not the first time you've said that,  
20 is it?

21 A. No. It's been a while, though.

22 Q. Without going through each one of  
23 the other products individually, is it fair to  
24 say they all relate in some way to JobsEQ? Or  
25 is that an oversimplification?



1 R. LOMBARDO

2 A. No, that would work.

3 Q. So is it correct to say that the  
4 services you performed for Chmura all related  
5 in some way to JobsEQ?

6 A. Yes. Sometimes I would turn  
7 consulting projects over to our consulting  
8 side, our VP of business development. But I  
9 didn't handle any of those. Once they kind of  
10 came across my desk, I just handed those off.

11 Q. Did you bring any clients with you  
12 to Chmura?

13 A. No.

14 Q. Did you have prior experience  
15 selling software?

16 A. No.

17 Q. Once you started at the company, did  
18 you -- were you assigned a specific geographic  
19 sales territory?

20 A. No.

21 Q. Did you end up at any point having a  
22 specific geographic sales territory?

23 A. Yes.

24 Q. What was it?

25 A. It changed a bit over time. They

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2 added a few. But I was in charge of Ohio,  
3 Michigan, Illinois, New York, Florida, Texas,  
4 Oklahoma, Louisiana, Washington, Texas --  
5 Washington, California, Wisconsin, Minnesota,  
6 Iowa. I think that's about all I could  
7 remember.

8 Q. And when did you go from not having  
9 any specific territory to having responsibility  
10 for those states?

11 A. I'm not sure. I want to say it was  
12 roughly sometime in 2016. I believe prior to  
13 the hire of Henry Curtis, I think. It was  
14 either right before or after. Sometime in  
15 2016.

16 Q. And within those states, how did you  
17 go about deciding who you were going to try to  
18 sell the products to?

19 A. Since the vast majority of our  
20 clientele that I was in charge of reaching out  
21 to were government entities, I would just go  
22 through and call each individual county based  
23 on population with the highest population  
24 first. And then each state had workforce  
25 boards broken out, so I would then add all the

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2 workforce boards to sales force as well, if  
3 they were not already there.

4 Q. And approximately how many potential  
5 entities in the states that you were assigned  
6 to are there in those categories?

7 A. Individually or combined?

8 Q. I'm just looking for a total number.

9 A. If you're -- that's hard to say. If  
10 you're just counting the workforce boards, I  
11 would say there would roughly be 100-ish to 150  
12 depending on the state. But then from there, I  
13 was able to sell into individual cities as  
14 well, but not every city was necessarily a  
15 viable prospect. So it would go up from 150.

16 Q. And did you in any way prioritize  
17 the prospects that you called on?

18 A. Mostly by population.

19 Q. And you made the decision to call  
20 on, I assume, the more populous entities first?

21 A. Yes.

22 Q. And when you say "contact," are you  
23 talking about phone calls? Emails? How did  
24 you reach out to them?

25 A. Yes, I would start with an email. I

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2 almost always started with an initial email,  
3 and then followed up a few days later based on  
4 that email.

5 Q. And when you say "follow up," you're  
6 talking about a phone call?

7 A. Yes, sir.

8 Q. Did you place those phone calls from  
9 your office phone or your cell phone or both?

10 A. Both.

11 Q. When you were in the office, did you  
12 generally use your office phone? Or did you  
13 also use your cell phone from that location?

14 A. I would occasionally use my cell  
15 phone, but the vast majority would be the  
16 office phone.

17 Q. And then I take it that you used  
18 your cell phone for the times when you were not  
19 in the office?

20 A. Yes.

21 Q. And using your cell phone, you  
22 placed and received calls from prospective  
23 clients?

24 A. Yes.

25 Q. And using your cell phone, you place

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2 and receive calls to existing clients?

3 A. Yes.

4 Q. So you had contact information  
5 relating to clients and prospective clients on  
6 your cell phone at various times, right?

7 A. Yes.

8 Q. When you emailed clients and  
9 prospective clients, did you exclusively use  
10 your corporate email account at Chmura?

11 A. Yes.

12 Q. Did you ever email a Chmura client  
13 or prospect from your personal email account?

14 A. It may have happened two to three  
15 times. Sometimes people would reach out to me  
16 through LinkedIn, and the LinkedIn was  
17 connected to my personal email. But generally  
18 from there, I would let them know to reach out  
19 through my company email because I wanted to  
20 put all those contacts and clients in folders  
21 for the clients.

22 Q. How about text messaging? Did you  
23 ever change text messages with clients or  
24 prospects?

25 A. I can't remember. I can remember

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2 one client that I text messaged. Yeah, a  
3 workforce board in Florida was the only one I  
4 text messaged that I can remember. It may have  
5 happened one or two more times, but that was  
6 not frequent.

7 Q. And you mentioned LinkedIn. You  
8 used LinkedIn's message capability from time to  
9 time; is that correct?

10 A. Yes, if they reached out to me  
11 through there, maybe a prospect or a client  
12 moved and they were looking to get ahold of me,  
13 they would reach out to me through LinkedIn.

14 Q. But you didn't generally initiate  
15 communications through LinkedIn?

16 A. I would not initiate messages  
17 through LinkedIn, no. I would use LinkedIn as  
18 a prospecting tool, but I wouldn't reach out to  
19 them through LinkedIn. I would reach out to  
20 them via email.

21 Q. Other than what we discussed,  
22 Mr. Lombardo, are there any other methods by  
23 which you communicated with Chmura clients or  
24 prospective clients?

25 A. No, but seeing at conferences.

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2 Q. Once you identified someone as a  
3 prospect, walk me through the process by which  
4 you would try to sell them.

5 A. I would start -- if by adding them  
6 to Salesforce if they are not already in there,  
7 I would go to their company webpage. And  
8 because we dealt with a lot of government  
9 clients, much of their contact information was  
10 able online, which was very nice to have, you  
11 know, being in sales before where you didn't  
12 have that type of access.

13 So I would add in the company link  
14 in the Salesforce. I would add in all the  
15 contact information for maybe the CEO, the vice  
16 president, if there's a director of research,  
17 and others, I would add the contact in  
18 Salesforce. I would try to do a little bit of  
19 research in JobsEQ, add in maybe the population  
20 so I know what they're dealing with. Fill out  
21 the information in Salesforce. I would  
22 generally send out an introductory email to the  
23 first person I was hoping to connect with, with  
24 some references of clients in the home state,  
25 and then follow up, you know, 2 to 3 days

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2 later.

3 Q. Obviously, Mr. Lombardo, you were  
4 successful in your sales efforts on behalf of  
5 Chmura?

6 A. Yes.

7 Q. What factors do you believe made you  
8 successful?

9 A. I think I worked hard and long.

10 Q. Did you consider it important to try  
11 to build relationships with your prospective  
12 clients and clients?

13 A. Yes, very much so.

14 Q. Did you believe it was important for  
15 you to be responsive to them when they reached  
16 out to you?

17 A. Yes.

18 Q. Why is that?

19 A. I wanted to keep my clients happy.

20 Q. Any other factors that you  
21 considered important in being a successful  
22 account manager?

23 A. I mean, lots of stuff. Having some  
24 thick skin. You get told no a lot. You've got  
25 to just work your way through the no's to get



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2 to the yes's. Like I said, you know, maintain  
3 good quality relationships so you can get  
4 referrals from current clients. It's a small  
5 industry. People talk to each other. So if  
6 you're doing well to them, they will pass it  
7 along.

8 Q. And if a prospect expressed an  
9 interest in the product, I take it that you  
10 tried to follow up with them as quickly as  
11 possible?

12 A. Yep.

13 Q. Why?

14 A. I was hoping to close the sale with  
15 them over time.

16 Q. And in your experience, did your  
17 level of responsiveness make a difference?

18 A. Sometimes yes; sometimes no.  
19 Depends how it came in.

20 Q. But it wasn't your practice to keep  
21 prospective clients or clients waiting or  
22 failed to return a phone call if you could help  
23 it, right?

24 A. Correct.

25 Q. Other than just their contact

1 R. LOMBARDO

2 information, did you make efforts to try to  
3 determine what a prospective clients' needs  
4 might be with respect to JobsEQ?

5 A. I would take a look to see in JobsEQ  
6 kind of what their industry mix was, to see if  
7 maybe they have a lot of manufacturing in the  
8 area verse maybe more office space, see how  
9 they might utilize it.

10 Q. And then when you ultimately talked  
11 to them, did you try to gather that kind of  
12 information as well?

13 A. Not initially, no. My first bid was  
14 really I didn't try to sell them on really  
15 purchasing anything. My initial thing was just  
16 trying to get them to take a look at it before  
17 I would get into answering any questions or  
18 grilling them. I just really would present,  
19 hey, I've got a product I think it would be  
20 great for you to take a look at.

21 Q. Did that process of trying to  
22 determine the potential needs of the customer  
23 come at some later point in the sales cycle?

24 A. Yes, generally on the demo.

25 Q. Okay. Tell me about the demo. How

1 R. LOMBARDO

2 did that work?

3 A. I would send an invite over. And  
4 generally pretty much exclusively through Go to  
5 Meetings and we did use Join Meeting before  
6 that. We'd carve out an hour, and I'd walk  
7 them through each individual analytical of  
8 JobsEQ.

9 Q. But then how did you attempt to or  
10 did you attempt to extract information about  
11 what they liked about the product or didn't  
12 like or what you might be able to ultimately  
13 sell them?

14 A. Yeah, I would ask them various  
15 questions. I would just do a lot of listening  
16 to see if they had any, you know, oohs or ahs  
17 or if they had any questions, I'd kind of drill  
18 into that more.

19 Q. And did you record any of that  
20 information anywhere, either in Salesforce or  
21 somewhere else?

22 A. Yes, in Salesforce.

23 Q. Is there any other information about  
24 a client or prospective client that you used  
25 during the sales process?

1 R. LOMBARDO

2 A. Not that I can think of.

3 Q. And of the information that we've  
4 discussed, is there any of it that you consider  
5 to be confidential to Chmura?

6 MS. COOPER: Objection as to form,  
7 but go ahead.

8 A. Not that I could think of. Like my  
9 selling style?

10 Q. Are you saying that you considered  
11 your selling style to be confidential, or are  
12 you asking?

13 A. No, I'm asking is that the question?  
14 You're asking me about my selling style, so I  
15 wasn't sure if that's what you're asking. I  
16 guess could you rephrase the question?

17 Q. Sure. Is there any information you  
18 collected during your work at Chmura about  
19 clients or prospects that you considered to be  
20 confidential?

21 MS. COOPER: Objection. It calls  
22 for a legal conclusion. But you can  
23 answer.

24 A. No.

25 Q. So you felt free to disclose that

1 R. LOMBARDO

2 information if you had wanted to to anyone?

3 MS. COOPER: Objection.

4 A. Well, it depends what information it  
5 would be. If it was what the client is doing,  
6 you know, what their -- you know, maybe a  
7 project they're working on that they're telling  
8 me about, yeah, I wouldn't think that's  
9 confidential.

10 Q. Do you consider any of the  
11 information about what the client wanted or  
12 needed in terms of JobsEQ to be confidential?

13 MS. COOPER: Objection.

14 A. No.

15 Q. Do you consider the terms of a  
16 customer's contract with Chmura to be  
17 confidential, including pricing?

18 A. I would think it is. But also some  
19 of those contracts are posted online, so it  
20 would be hard to say.

21 Q. So it would depend on the individual  
22 client?

23 A. Well, I would think it would be  
24 confidential, yes. But they're also available  
25 on the Internet.

1 R. LOMBARDO

2 Q. And I'm just trying to make sure I  
3 understand your answer. Are you saying all of  
4 a customer's contracts with Chmura are  
5 available on the Internet or some of them are?

6 A. Some of them are.

7 Q. So if the terms of a contract are  
8 not publicly available, do you consider them  
9 confidential?

10 MS. COOPER: Objection.

11 A. Yes.

12 Q. Other than Salesforce and the  
13 contact information we discussed about your  
14 cell phone, did you have any contact  
15 information about prospects or clients stored  
16 in any other location?

17 A. No.

18 Q. Did you have a desktop computer at  
19 Chmura?

20 A. Yes.

21 Q. And a laptop?

22 A. Yes.

23 Q. Did you use a tablet of any kind?

24 A. No.

25 Q. And was your cell phone issued by

1 R. LOMBARDO

2 the company or your personal phone?

3 A. My personal phone.

4 Q. Did you use any -- do you know what  
5 a USB storage device is?

6 A. Yes.

7 Q. Did you use any of those types of  
8 devices during any of your work at Chmura?

9 A. Not that I can -- maybe here or  
10 there at a conference because we had USB  
11 giveaways. Sometimes I would store something  
12 on there if it was -- I don't remember ever  
13 storing anything on there, but ... because on  
14 the laptop there, the plug that that goes in, I  
15 use for my wireless mouse.

16 Q. How about do you know what cloud  
17 storage is?

18 A. I mean, kind of. Like I know it's  
19 like JobsEQ, it's a cloud product stored up  
20 there somewhere, but I don't know -- I'm not an  
21 IT guy.

22 Q. Let me try to move us along. Did  
23 you ever store work-related documents on  
24 anything like Dropbox or Google Docs or Box.com  
25 or services like that?

1 R. LOMBARDO

2 A. Not intentionally if I did.

3 Q. So, Mr. Lombardo, I understand that  
4 one of your claims against Chmura is that you  
5 contend it owes you certain commissions that  
6 have not been paid?

7 A. Yes.

8 Q. Can you tell me generally what your  
9 basis is for that claim?

10 A. The offer letter and contract that I  
11 signed that I was due 15 percent for initial  
12 sales and if I didn't get the 15 percent for  
13 the initial sale, that would have been the  
14 basis for it.

15 Q. And that offer letter is Exhibit A  
16 that we've already gone over, correct?

17 A. Yes.

18 Q. Other than that offer letter, is  
19 there any other basis for your commission  
20 claims?

21 A. No.

22 (Plaintiff's Exhibit D marked for  
23 identification.)

24 Q. All right. Mr. Lombardo, hopefully  
25 you are looking at what has been marked as



1 R. LOMBARDO

2 Exhibit D. Can you see that?

3 A. Yeah, I'm working on it. Okay. I  
4 have this up. Okay. Yes, I have this up.

5 Q. Tell me if you recognize that.

6 A. I do.

7 Q. Those are your written answers to  
8 the written questions that Chmura submitted to  
9 your counsel in this case, correct?

10 A. Yes, sir.

11 Q. And over here on page 10, that is  
12 your signature, correct?

13 A. Yes, sir.

14 Q. And were these answers accurate to  
15 the best of your knowledge when it was signed?

16 A. Yes, sir.

17 Q. Are they accurate now?

18 A. To my knowledge, yes.

19 Q. I'll take us over here to page 4.  
20 Tell me if you can see page 4.

21 A. Yes.

22 Q. At the very bottom, the last line  
23 starts out: Unpaid commissions in excess of  
24 \$18,000. Do you see that?

25 A. Yes, sir.

1 R. LOMBARDO

2 Q. And then I'm going to take us to the  
3 next page. And on that page, there's a list of  
4 I would estimate maybe a dozen accounts with a  
5 dollar figure next to each one.

6 Do you see that?

7 A. Yes.

8 Q. And these are the commissions that  
9 you contend you're owed that you did not  
10 receive; is that right?

11 A. It's a partial list, yes.

12 Q. Fair enough, yeah. In terms of the  
13 claims that you made with respect to the offer  
14 letter that you just described, these are the  
15 unpaid commissions that you're talking about;  
16 is that correct?

17 A. Yes. These were the ones that I  
18 could remember. I don't believe they're all of  
19 them, but yes.

20 Q. Sitting here today, can you identify  
21 any others for me?

22 A. No, I can't think of any others.

23 Q. Where did you get the dollar figures  
24 that are next to each one of these accounts?

25 A. What I try to do is remember what

1 R. LOMBARDO

2 the cost of the agreement was for and what I  
3 remembered my commission being. But I do not  
4 have the documents for this. I believe they're  
5 in Salesforce.

6 Q. Okay. And did you rely on any  
7 documents to come up with the dollar figures  
8 that we're seeing here on Exhibit D?

9 A. No.

10 Q. This is all based on memory?

11 A. Yeah, to the best of -- to the best  
12 that I can remember.

13 Q. All right. Mr. Lombardo, I'm going  
14 to try to do it quickly, but I'd like to walk  
15 through these and get a little more about the  
16 nature of your claim for each one.

17 So let's start with Oklahoma  
18 Department of Commerce. When did this deal  
19 close?

20 A. I want to say roughly October,  
21 between August and October 2017.

22 Q. And were you paid any commission on  
23 the deal at all?

24 A. I believe I was paid 5 percent. It  
25 was originally zero, and I fought the best I

1 R. LOMBARDO

2 could and was able to get 5 percent, to the  
3 best of my knowledge.

4 Q. And you believe you were entitled to  
5 15 percent?

6 A. Yes.

7 Q. What -- you said you fought. Who  
8 did you fight with or to about getting the  
9 5 percent?

10 A. I spoke with my manager at the time,  
11 which I think -- I'm pretty sure it was Kyle  
12 West at that point and Leslie Peterson.

13 Q. And you said it was originally zero.  
14 And someone told you that you would get 5  
15 instead after you brought it to them. Is that  
16 a fair summary?

17 A. Yeah.

18 Q. Who told you that?

19 A. I believe it was Leslie.

20 Q. And what did Leslie tell you about  
21 the reason that you weren't getting the full  
22 15 percent?

23 A. That it was because it was an RFP.

24 Q. Is that a request for proposal?

25 A. Yes, sir.

1 R. LOMBARDO

2 Q. And in the context of Chmura, are  
3 RFPs sometimes used?

4 A. Yes.

5 Q. And -- well, I'm only speaking from  
6 my personal knowledge so I'll ask you the  
7 question instead.

8 Is an RFP a more formal proposal  
9 than just a sales process that may take place  
10 over the phone?

11 A. Yes. A lot of times with an RFP, it  
12 would have to go through a procurement process  
13 where they have to show two other bids.

14 Q. And does an RFP usually involve  
15 something in writing, a proposal?

16 A. Yes.

17 Q. And do you have -- well, let me ask  
18 it like this: Have you, in the past, put  
19 together formal RFPs to make sales at Chmura?

20 A. Are you asking prior to the Oklahoma  
21 Department of Commerce or after that in some  
22 fashion?

23 Q. Either one. I'm just saying other  
24 than this deal, have you been involved in  
25 preparing RFPs at Chmura?

1 R. LOMBARDO

2 A. Yes. After this took place, I have.

3 Q. And tell me what that involves, your  
4 work on an RFP.

5 A. If they were real in-depth, I'd work  
6 with a manager. But the ones that I filled out  
7 were not very in-depth. They were maybe 2 to  
8 3 pages. So we'd answer the questions they  
9 provided and give them a price quote in a more  
10 formalized way.

11 Q. And other than a manager, is there  
12 anybody else at Chmura that you'd worked on  
13 RFPs with?

14 A. Not that I worked with, no.

15 Q. So let's talk about the Oklahoma  
16 Department of Commerce. Did you complete the  
17 RFP for that particular deal?

18 A. I did not.

19 Q. Do you know who did?

20 A. I believe Leslie and her side of the  
21 house did. I'm not sure who else worked on it.

22 Q. I'm sorry. What do you mean "her  
23 side of the house"?

24 A. I guess it may have been Sharon and  
25 Chris at the time. I'm not sure. I know

1 R. LOMBARDO

2 people -- the team in Richmond filled it out,  
3 to the best of my knowledge.

4 Q. Did you have any role in completing  
5 the RFP?

6 A. Other than forwarding it along, I  
7 don't recall adding anything to it.

8 Q. And did you at some point have a  
9 conversation with Leslie about your involvement  
10 in the RFP?

11 A. Not that I recall.

12 Q. Maybe I misheard. I thought you  
13 said earlier that you were told that you were  
14 only getting a 5 percent commission because you  
15 weren't involved in the RFP?

16 A. I apologize. I thought you meant as  
17 the RFP came in, had conversations about my  
18 role in it. No. So yes, my conversations  
19 after we won the proposal.

20 Q. And tell me about those  
21 conversations.

22 A. Well, it was pretty upsetting. I  
23 was working the account for 2 years. I did, I  
24 believe, three demos in my time there. It was  
25 an account that I worked on for, you know, like

1 R. LOMBARDO

2 I said, many years. I thought I was going to  
3 get the full 15 percent on it. We were never  
4 advised anything different for RFPs.

5 And then I found out we won it in an  
6 email that was forwarded to me from my sales  
7 manager, and I wasn't even included in the  
8 congratulatory email when we won it. So my  
9 manager at the time, Kyle West, said I don't  
10 think you're getting any commission on this. I  
11 asked him why that would be. He said he wasn't  
12 sure. It looks like I kind of got cut out of  
13 that deal, so we set up a call with Leslie to  
14 talk about it.

15 Q. All right. And tell me about that  
16 call.

17 A. To the best of my knowledge, from  
18 what I can recall, she tried to back me into a  
19 corner. And I remember her saying, either I'm  
20 calling her a liar if I didn't admit she told  
21 me I wouldn't get commission on RFPs. I  
22 remember it being a very uncomfortable  
23 conversation because I was not told I would not  
24 get commission on RFPs. And she said she  
25 called me, we had a discussion about it, and



1 R. LOMBARDO

2 that I was calling her a liar if I was saying  
3 that. So it was an awkward conversation, from  
4 what I remember.

5 Q. Let me ask this. Before this  
6 Oklahoma deal came out, was there a time you  
7 closed the deal and didn't complete the RFP and  
8 got full commission?

9 A. No. I've never -- that was the  
10 first one I remember us winning through an RFP  
11 process that I was involved with, that I  
12 demoed.

13 Q. So this was really the first time  
14 this situation came up, right?

15 A. Yes.

16 Q. And so you don't recall any prior  
17 discussions with Ms. Peterson -- again, before  
18 the Oklahoma Department of Commerce deal --  
19 about whether you would or would not get paid  
20 on an RFP, correct?

21 A. Correct.

22 Q. And do you know how much time, you  
23 called them I think the Richmond folks, do you  
24 know how much time they spent on the RFP for  
25 Oklahoma?

1 R. LOMBARDO

2 A. I am not familiar.

3 Q. Did you have any other conversations  
4 with Ms. Peterson about the Oklahoma deal other  
5 than what you've described?

6 A. Not that I can remember.

7 Q. All right. Let's try to keep  
8 rolling here. The second one on your list in  
9 Exhibit D is identified as Port Authority EDC.  
10 Does that be Port Arthur EDC?

11 A. Yes, it's Port Arthur EDC.

12 Q. When did this deal close?

13 A. I believe in April-ish of 2015.

14 Q. And what, if any, commission did you  
15 receive on it?

16 A. I initially received 3 percent.  
17 After an email exchange, I believe it went to  
18 7 and a half percent.

19 Q. And what reason were you given for  
20 not getting the full 15 percent?

21 A. I was told that this was a hot lead  
22 that was handed to me.

23 Q. And what was your understanding of  
24 that phrase?

25 A. I really didn't understand that

1 R. LOMBARDO

2 phrase, to be honest.

3 Q. Well, let me ask it a different way.

4 Was that lead already in Salesforce?

5 A. No.

6 Q. Had anybody at Chmura had contact  
7 with that lead before you?

8 A. At the time I was not aware. But  
9 after it closed, I was.

10 Q. And so somebody did. You just  
11 didn't know about it?

12 A. Correct.

13 Q. Who had contact with them?

14 A. From the email I remember, I think  
15 Leslie met them at a conference in, like,  
16 August of 2014.

17 Q. And who, if anybody, did the demo,  
18 to your knowledge, for Port Arthur?

19 A. I believe Greg Chmura did.

20 Q. And did you ever do a demo for Port  
21 Arthur?

22 A. I'm not sure. It would be in  
23 Salesforce. I think I may have for Renata's  
24 boss, but I'm not a hundred percent positive.  
25 It would be in Salesforce if I did.

1 R. LOMBARDO

2 Q. And just so I'm clear, this was in  
3 2015, right?

4 A. Yes.

5 Q. I don't mean this as a challenge at  
6 all, Mr. Lombardo. But how is it that you  
7 remember this \$375 figure from 5 years ago?

8 A. Because the pricing at the time was  
9 pretty easy. It was 4,995 for almost all the  
10 deals or 9,995. And I just remember the Port  
11 Arthur one specifically because I was so  
12 shocked that -- with an email that I received  
13 from Leslie with it. You know, it was one that  
14 I found a magazine. I sent the cold email out.  
15 I added them into Salesforce. I did everything  
16 I thought my responsibility was as an account  
17 manager. And then when it came time for  
18 commissions, it showed up I was only getting  
19 3 percent on it.

20 Q. You're not disputing that  
21 Ms. Peterson had already met this client, Port  
22 Arthur, right, before you came to work at  
23 Chmura?

24 A. Correct, yeah. To my knowledge, I  
25 found out afterwards she has.

1 R. LOMBARDO

2 Q. And we talked a little bit about a  
3 demo. I just want to make sure our timeline is  
4 clear. Did you provide Port Arthur with a demo  
5 prior to this deal closing in 2015?

6 A. I believe I did. To the best of my  
7 knowledge.

8 Q. Do you remember when?

9 A. I don't remember when.

10 Q. Do you remember how many?

11 A. I believe I would have only given  
12 one, I believe.

13 Q. Do you know if anybody else had  
14 given a demo prior to you?

15 A. I was told afterwards that Rob  
16 Macmillan did, but I don't know that.

17 Q. And was he still there when you  
18 started?

19 A. No.

20 Q. Okay. All right. Let's talk about  
21 the next one. Workforce Intelligence Network.

22 A. Yeah, that was a 3-year deal.

23 Q. So it was a 3-year license?

24 A. Yeah.

25 Q. And is it your contention that you

1 R. LOMBARDO

2 should be paid the 15 percent commission for  
3 3 years running on a deal like that?

4 A. Yes.

5 Q. And is that in any written policy or  
6 anything that you can point me to at Chmura,  
7 that that's the way a 3-year deal is paid out?

8 A. No, other than the contract I signed  
9 at the beginning that said 15 percent on the  
10 initial sale.

11 Q. And were you paid anything on this  
12 Workforce Intelligence Network?

13 A. Yes.

14 Q. How much?

15 A. I'd have to do the math. I remember  
16 it was -- I don't know the exact amount. I was  
17 paid 15 percent on the first year and 2 percent  
18 on years 2 and 3.

19 Q. And did you talk to anybody about  
20 that, that you were dissatisfied with the  
21 amount of the commission?

22 A. I did not.

23 Q. So were you given a reason?

24 A. I did not complain to anybody.

25 Q. When did this one close? Did you

1 R. LOMBARDO

2 already answer that?

3 A. No. Again, my best assumption would  
4 be sometime between August and November-ish  
5 maybe of 2015.

6 Q. Okay. The next one is Lea County  
7 EDC. That one closed in 2015, correct?

8 A. Correct.

9 Q. And did someone at Chmura have any  
10 contact with Lea County before you?

11 A. Yes.

12 Q. Who?

13 A. I believe Rob Macmillan, but I don't  
14 know that for certain. Again, that would be  
15 something -- I think that one was in  
16 Salesforce, I believe.

17 Q. I'm sorry. You said that one was in  
18 Salesforce?

19 A. Yes, sir.

20 Q. And it was identified as a prospect  
21 in Salesforce?

22 A. Yes.

23 Q. Or I guess they're opportunities,  
24 right?

25 A. Yeah. Actually, I do believe the

1 R. LOMBARDO

2 contract was even sent out on this one as well.

3 Q. So there was already a contract in  
4 front of the customer when you started as an  
5 employee at Chmura?

6 A. Yes.

7 Q. And obviously you didn't have  
8 anything to do with getting that contract out  
9 the door?

10 A. No.

11 Q. But it's your position that because  
12 the contract was signed after you began working  
13 with the client, that you're entitled to the  
14 full commission?

15 A. Yes.

16 Q. And that's regardless of whether  
17 anybody else was involved in the prospecting  
18 process or the negotiation process or the demo  
19 process, correct?

20 A. Yes.

21 Q. Did you complain about Lea County?

22 A. I did not.

23 Q. All right. Kentucky Cabinet --

24 A. Again, that was --

25 MS. COOPER: Let him ask the



1 R. LOMBARDO

2 question.

3 A. I apologize.

4 Q. Don't worry about it. I think we're  
5 doing pretty well, actually.

6 Is that another, we'll call it,  
7 early account in your career?

8 A. Yes.

9 Q. It closed in 2015?

10 A. Yes.

11 Q. And you were paid a 5 percent  
12 commission?

13 A. I think it was 5. And after I spoke  
14 with Leslie about it, she did bump it up to  
15 10 percent.

16 Q. What reason were you given for not  
17 getting the full 15 percent?

18 A. That I did not do the demo on it.

19 Q. Was that true?

20 A. That is true.

21 Q. And was this another demo that was  
22 done by Rob or somebody else?

23 A. Yes.

24 Q. And that happened before you started  
25 working at Chmura?

1 R. LOMBARDO

2 A. Yes.

3 Q. Sugar Land, Texas, that was a 2019  
4 deal, correct?

5 A. Yes.

6 Q. And I'll just be frank with you,  
7 Mr. Lombardo. My information suggests that it  
8 was a \$6,000 sale and you were paid \$900  
9 commission, which even by my poor math is  
10 15 percent. So what is it that you think you  
11 were shorted on this deal?

12 A. It was actually a 6-year deal.

13 Q. Ah. So you believe that you should  
14 receive the full 15 percent for the entire  
15 6-year period?

16 A. As it was the initial sale.

17 Q. That's your contention? I mean,  
18 that's the difference in the math here?

19 A. Yes, sir.

20 Q. And did you raise that  
21 interpretation with anybody?

22 A. No.

23 Q. Onondaga?

24 A. Good enough for me.

25 Q. Did I mispronounce it badly?

1 R. LOMBARDO

2 A. No, I think you hit it on the head.

3 Q. Sorry. I lost the screen for a  
4 second.

5 That one closed in 2016?

6 A. Yeah.

7 Q. What is the basis for the \$1,320 in  
8 unpaid commission claims?

9 A. It was a 2-year deal.

10 Q. So this is similar to the last one  
11 we talked about. It's your position that  
12 because it was over time, you should get the  
13 15 percent each year, not just in the first  
14 year?

15 A. Yes.

16 Q. And without regard to any of these  
17 specific deals, did you ever discuss that  
18 interpretation with anybody in management at  
19 Chmura?

20 A. I don't recall. We may have brought  
21 it up to sales managers as a team before, but I  
22 don't recall any specific conversations about  
23 it.

24 Q. Okay. So the next one is Workforce  
25 Central.

1 R. LOMBARDO

2 A. Yes.

3 Q. Is that one subject to the same  
4 issue that we're talking about?

5 A. Yes, sir.

6 MS. COOPER: Objection as to form.  
7 Go ahead.

8 A. Yes, sir.

9 Q. Yeah, that's fair.  
10 Is your contention with regard to  
11 Workforce Central the same as the last two  
12 deals that we've been talking about in terms of  
13 multiyear licenses?

14 A. Yes.

15 Q. The basis for your claim here is you  
16 did not get the full 15 percent for the entire  
17 3-year license?

18 A. Correct.

19 Q. Virginia Growth Alliance?

20 A. Yep.

21 Q. That was an early one, 2015?

22 A. Yes.

23 Q. And did you do the demo for this  
24 one?

25 A. No. If I recall on this one, he

1 R. LOMBARDO

2 didn't -- I don't know if he didn't ask for a  
3 demo. He may have known about Chmura Economics  
4 through Chris speaking or their relationships  
5 in Virginia at the time, but he just called in  
6 and asked for a contract.

7 Q. Did -- to your knowledge, did  
8 anybody at Chmura have contact with this  
9 customer before you?

10 A. To my knowledge, no, no, but I  
11 assumed that they did, if that makes sense and  
12 all. My assumption is there was some  
13 relationship there.

14 Q. Because it's not common for somebody  
15 to just call up and say send me a contract?

16 A. I wish it was more common.  
17 Especially being down in Virginia and I know  
18 that they have strong relationships there, I  
19 know they do a lot of good work down there, you  
20 know, I'm assuming that's why it came in and  
21 very little to do with me.

22 Q. Did you discuss the Virginia Growth  
23 Alliance deal with anybody as to why you didn't  
24 get full commission?

25 A. I can't remember if I did on that

1 R. LOMBARDO

2 one or not. I may have through an email  
3 correspondence in 2015, but I'm not sure.

4 Q. Gaston College, Mr. Lombardo, is the  
5 next one. And that one was also a to 2015  
6 deal, correct?

7 A. Yes, sir.

8 Q. And you got a 10 percent commission  
9 but not the full 15?

10 A. I think it's 3 percent, not 15. To  
11 the best of my knowledge.

12 Q. And had there been some prior  
13 contact between this customer and somebody at  
14 Chmura before you came on board?

15 A. Yes.

16 Q. Did you do the demo?

17 A. No, I don't believe so.

18 Q. Radius Indiana, again, that's a 2015  
19 deal, correct?

20 A. Yes.

21 Q. And did you do the demo for that  
22 one?

23 A. I don't believe so.

24 Q. And then finally East Central  
25 Indiana, that closed in 2015 as well, correct?

1 R. LOMBARDO

2 A. Yes.

3 Q. And, again, someone else did the  
4 demo for this one?

5 A. Yes, I believe so.

6 Q. Okay. And I'll ask you this  
7 question again just having gone through this  
8 list. Are there any other sales that you  
9 didn't get paid the full commission on that you  
10 can recall sitting here today that are part of  
11 your commission claim?

12 A. Not that I can think of. That's the  
13 best list I can come up with without accessing  
14 Salesforce.

15 Q. When you started, Mr. Lombardo, did  
16 anybody ever tell you that there may be  
17 situations in which you would not receive a  
18 full commission?

19 A. Yes.

20 Q. Who told you that?

21 A. Leslie.

22 Q. And when did she tell you that?

23 A. I'm not sure. Early on.

24 Q. What did she tell you about the  
25 situations in which you may not receive a full

1 R. LOMBARDO

2 commission?

3 A. That there were, like, some hot  
4 leads apparently, to the best of my knowledge.  
5 I forget exactly how she said it or how it came  
6 about.

7 Q. Bear with me. We're just moving to  
8 the next document.

9 A. Can I X out of this one?

10 Q. You can. That's your copy.

11 (Plaintiff's Exhibit E marked for  
12 identification.)

13 Q. All right. I am showing you what's  
14 been marked as Plaintiff's Exhibit E. Take  
15 your time and take a look at that. It is a  
16 one-page document. Tell me when you've had a  
17 chance to look at it.

18 MS. COOPER: Was this -- I'm going  
19 to interject. Was this produced in  
20 discovery, Rod?

21 MR. SATTERWHITE: It was. You asked  
22 for it in Leslie's deposition, and I  
23 believe Heidi sent it to you on Saturday.

24 MS. COOPER: Okay. Thank you.

25 Q. Have you had a chance to look at it,



1 R. LOMBARDO

2 Mr. Lombardo?

3 A. Give me a minute here and I'll read  
4 it.

5 Q. Take your time.

6 A. To myself again. I've read it.

7 Q. All right. This is an email from  
8 Ms. Peterson to you dated March 20th of 2015,  
9 correct?

10 A. Yep.

11 Q. And there's another recipient named  
12 James Donovan. Who was that?

13 A. He was a salesperson, another  
14 account manager that was hired maybe 2 to  
15 3 weeks-ish after me.

16 Q. So is it fair to say that at the  
17 time you got this email, you were both new  
18 account managers at Chmura?

19 A. Yes, sir.

20 Q. Okay. And the email contains three  
21 bullet points, each one of which describes a  
22 scenario related to commissions; is that  
23 correct?

24 A. Correct.

25 Q. And the first category is basically

1 R. LOMBARDO

2 if a prospect is identified by someone else and  
3 all you do is get the signature, then your  
4 commission will be 3 percent. And I recognize  
5 that I'm paraphrasing. But is that your  
6 understanding?

7 A. Yes.

8 Q. The second scenario is if the  
9 prospect is identified and demoed by somebody  
10 else but you do followup work, then the  
11 commission on that will be on a judgment basis;  
12 is that correct?

13 MS. COOPER: Objection as to form.

14 Go ahead.

15 A. Yes.

16 Q. Is that what essentially the second  
17 bullet point says?

18 A. Yes.

19 Q. All right. And then the third  
20 category is when you prospect a new client,  
21 organize and give the demo, and close the deal,  
22 you get the full 15 percent?

23 A. Yes.

24 Q. Did you ask anybody any questions  
25 about this email when you got it?

1 R. LOMBARDO

2 A. I don't recall.

3 Q. Do you recall whether you disagreed  
4 with anything in the email when you got it?

5 A. I don't recall. I know I sent  
6 another email asking for further explanation on  
7 how some of these work. In the first bullet  
8 point, for example, the prospect identified by  
9 someone at Chmura different than yourselves,  
10 there was no list to go off of, here are the  
11 ones that fall into this bucket.

12 So for Port Arthur, for example, I  
13 found that one in a magazine, entered it into  
14 Salesforce. And, like I said, I believe I did  
15 one of the demos and closed it and then was  
16 told it was 3 percent. So I believe I sent an  
17 email to Leslie asking for more clarification  
18 on what those were.

19 Q. So you wanted to figure out how you  
20 could learn in advance whether some prospect  
21 had already been contacted and might not be  
22 subject to the full commission?

23 MS. COOPER: Objection as to form.

24 You can go ahead.

25 A. Yeah, so -- yeah, the Port Arthur

1 R. LOMBARDO

2 one was the one that just came as a surprise to  
3 me because I remember being what I thought was,  
4 you know, my first or second one that I kind of  
5 did on my own, I was pretty excited about. So  
6 I was told that wasn't what I believed it was.  
7 I sent Leslie an email asking for more  
8 clarification.

9 Q. Okay. At the time you got this  
10 email that's been marked as Exhibit E, you were  
11 aware that there were certain situations that  
12 would not result in a 15 percent commission,  
13 correct?

14 MS. COOPER: Objection as to form.

15 A. Yes.

16 Q. And you chose to continue working at  
17 Chmura thereafter?

18 A. Yes.

19 Q. Did you have annual reviews of your  
20 performance?

21 A. I don't think I did.

22 Q. Do you believe that somebody else  
23 thinks you did?

24 A. I believe other people may think  
25 that I did.

1 R. LOMBARDO

2 Q. Okay. Do you recall meeting with  
3 Greg Chmura in February of last year to talk  
4 about the possibility of you getting a raise?

5 A. Yes.

6 Q. Tell me what you recall about that  
7 conversation.

8 A. I asked for a raise. I thought I  
9 was due. Was that February of 2019 or 2018?

10 Q. I'm asking about 2019.

11 A. Okay.

12 Q. Is your answer the same?

13 A. Yeah, I don't remember specifics  
14 about it. But yeah, I remember asking for a  
15 raise.

16 Q. Did you go to him in person or do it  
17 by email or ...

18 A. I believe it was in person. Most of  
19 my interactions with the managers in Cleveland  
20 were in person instead of emails.

21 Q. During your meeting with Mr. Chmura,  
22 did you show him a letter that you received  
23 from a prospective employer?

24 A. No, I showed him a doctored letter  
25 that I received from an employer. Technically

1 R. LOMBARDO

2 it's not the one I received from a potential  
3 employer.

4 Q. Let me try it a different way. Did  
5 you show him a version of a letter that you had  
6 received from a potential employer?

7 A. Yes, sir.

8 (Plaintiff's Exhibit G marked for  
9 identification.)

10 Q. Okay. I am displaying what has been  
11 marked as exhibit G. Tell me if you've seen  
12 that before.

13 A. Yes.

14 Q. Is this what you gave to Mr. Chmura?

15 A. Yes.

16 Q. Why did you give him this?

17 A. I wanted to let, I guess, him and  
18 management know that, you know, other people  
19 would like to employ me. I felt kind of hurt  
20 and kind of taken advantage of the last few  
21 years. I understand I'm highly compensated. I  
22 make a lot of money there. But what we agreed  
23 to was still I would get an increase each year  
24 based on my performance. I thought I was  
25 outperforming what I agreed to on my end, and I

1 R. LOMBARDO

2 felt like they were not living up to theirs.

3 Q. Is it correct to say that you were  
4 using this letter to try to prove your value to  
5 the company?

6 A. Yeah, you could say that.

7 Q. You used the word "doctored"  
8 earlier. Did you change the date of the  
9 letter?

10 A. Yeah, I made several changes to it.  
11 I don't remember what every bit was. I  
12 obviously blacked some out. Yeah, the date was  
13 one of them.

14 Q. Was the base salary another one?

15 A. Yes.

16 Q. And this original letter came from a  
17 company called GIS WebTech, correct?

18 A. Yeah.

19 Q. And that's one of -- well, what to  
20 your knowledge is the relationship between  
21 Chmura and GIS?

22 A. They have some sort of partnership,  
23 I believe, that we import our data into GIS's  
24 platform when there's mutual customers.

25 Q. And did some sort of relationship

1 R. LOMBARDO

2 like that exist at the time that you gave  
3 Mr. Chmura the letter?

4 A. I don't believe so.

5 Q. Did any relationship exist, to your  
6 knowledge, between Chmura and GIS at the time  
7 you showed Mr. Chmura this letter?

8 A. I know there were talks about some  
9 sort of partnership, but I was not involved in  
10 any of those discussions.

11 Q. And did you know about the talks at  
12 the time you gave him the letter?

13 A. Well, I know that I was aware that  
14 management has met with them several times over  
15 the last I think it was 2 years at that point,  
16 but I don't know what transpired.

17 Q. Do you remember what the original  
18 base salary that GIS actually put in the salary  
19 was?

20 A. It was 57 something, and then they  
21 were going to pay me a stipend each month for  
22 healthcare because they did not offer it, and  
23 then they were going to pay me for retirement  
24 because they did not offer that as well. So  
25 that's how I came up with the 70,000.



1 R. LOMBARDO

2 Q. And physically what did you do,  
3 Mr. Lombardo? Did you white it out and type it  
4 in, or did you use a computer? How did you  
5 make these changes?

6 A. I think I used a computer.

7 Q. So we discussed the date of the  
8 letter. We discussed the salary amount being  
9 changed. Were there any other changes that you  
10 can recall?

11 A. Not that I can recall, no. I know  
12 the date and the salary. Well, I'm sure I  
13 would have -- probably the start date I would  
14 have assumed as well if I changed the original  
15 date up top.

16 Q. Why would you change the start date?

17 A. To let management think that I had  
18 an opportunity to work for them.

19 Q. At some point did Chmura question  
20 you about the changes to this letter?

21 A. Yes.

22 Q. Ms. Peterson and Dr. Chmura came to  
23 Ohio, correct?

24 A. Yes, but that was after they  
25 questioned me about the letter.

1 R. LOMBARDO

2 Q. Before they came to Ohio, had you  
3 acknowledged the changes that you made to the  
4 letter?

5 A. Yes.

6 Q. To whom?

7 A. Chris, Leslie, and Greg Chmura.

8 Q. Was that by phone?

9 A. Yes.

10 Q. So there was a phone call between  
11 you, Ms. Peterson, Dr. Chmura, and Mr. Chmura,  
12 correct?

13 A. Yes.

14 Q. And was Mr. Chmura in the room with  
15 you?

16 A. Yes.

17 Q. And Ms. Peterson and Dr. Chmura were  
18 on the phone?

19 A. Yes.

20 Q. How long did the phone call last?

21 A. Less than 10 minutes.

22 Q. And the first time that they asked  
23 you if you had made the changes to the letter,  
24 did you acknowledge that you had?

25 A. Yeah.

1 R. LOMBARDO

2 Q. Did they ask you more than one time  
3 if you had made the changes to the letter?

4 A. Once they asked me if I made changes  
5 to the letter, I said yes, so they didn't have  
6 to ask again.

7 Q. Had you had any prior conversations  
8 with anybody at Chmura in which you denied  
9 making the changes to the letter?

10 A. Not that I can recall.

11 Q. The ultimate outcome of this  
12 incident was that you were put on probation and  
13 denied a merit increase; is that correct?

14 MS. COOPER: Objection to the form.  
15 You can go ahead and answer.

16 A. No, this is the first time I ever  
17 heard I was on probation.

18 Q. When you say "this," you mean  
19 sitting here today or this, the lawsuit?

20 A. No, like sitting here right now.

21 Q. Well, let me ask it a different way:  
22 Did anybody tell you you were being put on  
23 probation because of this?

24 A. No, not that I can recall.

25 Q. Did anybody tell you that you would

1 R. LOMBARDO

2 be subjected to any discipline because of this  
3 incident?

4 A. Not that I can recall. I remember I  
5 had to, you know, apologize to the GIS WebTech  
6 team, apologize to the sales team.

7 Q. And were there any other  
8 repercussions that you know as a result of  
9 that?

10 A. No, not that I can recall.

11 Q. And did you think it was appropriate  
12 to change this letter in order to try to get a  
13 raise?

14 A. No.

15 Q. Did anybody from Chmura tell you  
16 that you could have been terminated?

17 A. Yes.

18 Q. Who said that?

19 A. I believe Leslie.

20 Q. What else did she say, if you  
21 remember anything?

22 A. She was disappointed. I was  
23 disappointed as well. You know, they just  
24 weren't happy about it. I don't remember  
25 specifics. I know that she was just

1 R. LOMBARDO

2 disappointed about it.

3 (Plaintiff's Exhibit H marked for  
4 identification.)

5 Q. All right. Mr. Lombardo, I'm  
6 showing you what's been marked as Exhibit H.  
7 Tell me if you recognize that.

8 A. I do.

9 Q. What is it?

10 A. An amendment to our -- to the  
11 original contract.

12 Q. And by "original contract," you're  
13 referring to the offer letter that was marked  
14 as Exhibit A at the beginning of the day today?

15 A. Yes, sir.

16 Q. Okay. And that's your signature at  
17 the bottom of Exhibit H, correct?

18 A. Correct.

19 Q. How long after the incident with the  
20 GIS letter did this document, was this document  
21 presented to you?

22 A. I don't recall. I assume a week or  
23 two. 2 weeks, 3 weeks. I don't remember.

24 Q. And this Exhibit H purports to  
25 make -- it says: The following changes have

1 R. LOMBARDO

2 been made. The reference to annual merit  
3 increases is hereby deleted. What did you  
4 understand that to mean?

5 A. It means they were taking away the  
6 merit increases that I never got.

7 Q. So was there any practical impact to  
8 that change?

9 A. Not that I could tell. They  
10 never -- I was never awarded a merit increase  
11 in my 5 years there.

12 Q. And then the second sentence in that  
13 third paragraph on Exhibit H says: In  
14 addition, Chmura would like to clarify that  
15 commissions become payable once Chmura receives  
16 the payment on the sale.

17 Do you see that?

18 A. Yes.

19 Q. Does this affect the timing of your  
20 commission payments?

21 MS. COOPER: Objection. Go ahead  
22 and answer.

23 A. Yeah, it could. It did.

24 Q. I'll just ask it a different way.  
25 What was your understanding of this sentence?

1 R. LOMBARDO

2 A. That if -- that if we did not get a  
3 check from the client, I would not get my  
4 commission.

5 Q. And were there any commissions that  
6 you did not receive after the date of Exhibit H  
7 because the client didn't pay?

8 A. Not that I can recall. I remember  
9 the one sticking point we had as account  
10 managers was even if they paid a multiyear  
11 contract up front, so Chmura did receive the  
12 full amount, we still did not receive the  
13 commission.

14 Q. Did this change in any way  
15 negatively impact the amount of commission that  
16 you received?

17 A. No.

18 Q. And then the beginning of the last  
19 paragraphs say: All other terms and conditions  
20 of the offer letter remain unchanged. Do you  
21 see that?

22 A. Yes.

23 Q. Did you ask anybody any questions  
24 about that language?

25 A. The very last part, "all other terms

1 R. LOMBARDO

2 and conditions" part?

3 Q. Right.

4 A. No.

5 Q. And you chose to continue working at  
6 Chmura after you received this document that's  
7 been marked as Exhibit H?

8 A. Yes.

9 MR. SATTERWHITE: Christine, I'm at  
10 a good breaking point if you guys want to  
11 take one.

12 MS. COOPER: Yeah. 5 minutes?  
13 10 minutes? What would you guys like to  
14 take?

15 MR. SATTERWHITE: Let's do 10.

16 MS. COOPER: Okay. Sounds good,  
17 Rod.

18 MR. SATTERWHITE: Thanks. Rachel,  
19 we can go off the record.

20 (A short break was taken.)

21 Q. Mr. Lombardo, after you were  
22 terminated from Chmura, you started looking for  
23 other jobs; is that right?

24 A. Correct.

25 Q. How soon after your termination?



1 R. LOMBARDO

2 A. I don't know the exact amount of  
3 days.

4 Q. Weeks? Months?

5 A. Weeks, not months. My wife would  
6 have killed me.

7 Q. And you prepared a resume to send to  
8 prospective employers as a part of that job  
9 search?

10 A. I had the resume on file. I had  
11 paid a professional resume writer back in 2017.

12 Q. And did you update it?

13 A. With some numbers, yeah.

14 Q. When did you update it?

15 A. Sometime after I left -- my wife's  
16 actually really good at that, so she updated it  
17 for each job depending on what was in the job  
18 description.

19 (Plaintiff's Exhibit I marked for  
20 identification.)

21 Q. Take a look at -- should be showing  
22 up as Exhibit I.

23 A. Yep.

24 Q. Have you had a chance to look at it?

25 A. Yep.

1 R. LOMBARDO

2 Q. Exhibit I is a copy of your resume?

3 A. One of them, yes.

4 Q. And was this a copy that was sent to  
5 prospective employers and recruiters after your  
6 separation from Chmura?

7 A. Yeah, this looks relatively close.  
8 Like I said, might change a few things here and  
9 there depending on the job. But yeah, this is  
10 the bones of what I had done.

11 (Plaintiff's Exhibit J marked for  
12 identification.)

13 Q. All right. Let me show you one  
14 other document. Take a look at Exhibit J and  
15 tell me when you've had a chance to look at it.

16 A. Is it just one page?

17 Q. It's 2 pages, I think. Oh, this  
18 document, I'm sorry, J is just one page, yes.

19 A. Okay.

20 Q. The resume is two?

21 A. Yes, I've looked at both pages of  
22 the resume. I just wanted to make sure there  
23 weren't two pages on this.

24 Q. Jackie Neva is a recruiter that you  
25 worked with in your job search?

1 R. LOMBARDO

2 A. Yeah, I worked with her for a short  
3 time.

4 Q. Well, Exhibit I -- I'm sorry,  
5 Exhibit J is an email from you to her dated  
6 November 17th, correct?

7 A. Correct.

8 Q. And your email says: Please see the  
9 attached updated resume for the enterprise  
10 account executive opportunity at SharpCloud,  
11 correct?

12 A. Correct.

13 Q. And Exhibit I is a resume that we  
14 received from a subpoena issued to Ms. Neva.  
15 Is that the resume that you sent to her?

16 A. Yeah, looks about right. I would  
17 believe so.

18 Q. Is the resume accurate?

19 A. Some stuff is a little fluffed up.  
20 I attend about five to seven conferences a  
21 year. I wasn't necessarily the official  
22 trainer for new hires for Salesforce, but I  
23 would show them around. Yeah, I believe many  
24 of the other things are mostly accurate on  
25 here. Yeah, I'd say they're accurate, mostly

1 R. LOMBARDO

2 accurate to the best of my knowledge.

3 Q. You want to be honest with your  
4 prospective employers, right?

5 A. Yes.

6 Q. So you didn't put any false  
7 information in this resume, did you?

8 A. Yeah, I'm sure some things were  
9 fluffed up on the resume.

10 Q. By "fluffed up," you mean untrue?

11 A. I mean, I didn't write this. I paid  
12 somebody else to write this, so these were not  
13 my words.

14 Q. You sent it to Ms. Neva, correct?

15 A. Correct.

16 Q. Intending for her to share it with  
17 prospective employers, correct?

18 A. Correct.

19 Q. In an effort to get a job?

20 A. Correct.

21 Q. When you sent it to her, did it  
22 contain any false information to your  
23 knowledge?

24 A. Yes.

25 Q. What is false in your resume?

1 R. LOMBARDO

2 A. I guess the -- I didn't do eight to  
3 ten industry trade shows. I don't know if this  
4 54 percent number was correct. It could have  
5 been within a percentage, couple percentage  
6 points of that. I don't know if we were  
7 exactly at 5 million. I wasn't necessarily the  
8 designated trainer for Salesforce. I think I  
9 averaged seven sales a month, but I obviously  
10 wasn't able to pull anything to state that.

11 Q. Anything else you can identify in  
12 Exhibit I that is false?

13 A. Not that I can see.

14 Q. Let's look at page 2. And the  
15 bottom of this page has a section called Career  
16 Progression.

17 A. Okay.

18 Q. Do you see that?

19 A. Yes.

20 Q. And that describes your work history  
21 at Chmura Economics; is that right?

22 A. Yes.

23 Q. The dates of this say February of  
24 2015 to the present. Do you see that?

25 A. Yes.

1 R. LOMBARDO

2 Q. Is that accurate?

3 A. No.

4 Q. This suggests that you were still  
5 employed at the time you sent out this resume,  
6 correct?

7 A. Correct.

8 Q. And that wasn't a true statement?

9 A. Correct.

10 Q. Did you tell Ms. Neva that you had  
11 been terminated?

12 A. I don't recall.

13 Q. What do you recall telling her about  
14 your departure from Chmura?

15 A. That there was a restructuring going  
16 on, I was going to lose a lot of my business,  
17 and I'm looking elsewhere.

18 Q. Did you tell her that the owner of  
19 Chmura had offered or had reached an agreement  
20 to buy you out for \$10,000?

21 A. No.

22 Q. Did you suggest to her that Chmura  
23 was going to buy your book of business?

24 A. I don't recall.

25 Q. Did you make any statements to her

1 R. LOMBARDO

2 along those lines?

3 A. I really don't recall much of the  
4 conversations with Ms. Neva.

5 Q. All right. Let's take a look at  
6 your description of your career progression.  
7 Do you see the first bullet point under senior  
8 account manager, it starts out: Hired as  
9 account manager?

10 A. Yes.

11 Q. And midway through that paragraph,  
12 there's a sentence that says: Manages clients  
13 after making the sale.

14 A. Yes.

15 Q. What did that entail during your  
16 employment at Chmura?

17 A. Try to have them renew business with  
18 us.

19 Q. Did it involve answering clients'  
20 questions after the sale had been made?

21 A. Yes, sometimes.

22 Q. Did it sometimes involve providing  
23 training to clients?

24 A. I did not do the training. I would  
25 assist them with a question here and there, but

1 R. LOMBARDO

2 I did not do training.

3 Q. Did it involve instances in which  
4 you would show clients how to use various  
5 features of the software?

6 A. Yes.

7 Q. Did it involve troubleshooting when  
8 a client was having some sort of problem?

9 A. Yes.

10 Q. Did it involve fielding client  
11 complaints?

12 A. Yes.

13 Q. Did it involve addressing quality  
14 control issues that clients may have been  
15 having?

16 A. Yes.

17 Q. What else did the process of  
18 managing the clients involve?

19 A. Just keeping them happy and making  
20 sure that they renewed with us the following  
21 year.

22 Q. And why did you use the word  
23 "manage"?

24 A. Again, I did not use the word. I  
25 paid a resume writer to do this professionally



1 R. LOMBARDO

2 for me.

3 Q. Well, you just identified a few  
4 aspects of the resume that contained false  
5 information and you indicated that everything  
6 else looked accurate. So I'm asking you about  
7 the choice of the word "manage." Why does it  
8 say that?

9 A. I don't know. That's when I  
10 described what I was doing. That's what the  
11 professional resume writing put in there.

12 Q. And is that an accurate description?

13 A. Yeah, I would say I maintained the  
14 client relationships.

15 Q. But it doesn't say "maintained." It  
16 says "managed." Is that an accurate  
17 description?

18 A. I guess I don't know.

19 Q. If you look at the next bullet point  
20 says: Provides all Salesforce training and  
21 product software training for new hires. This  
22 is one of the areas you identified as  
23 containing false information in your resume,  
24 correct?

25 A. Yeah. I wouldn't say I did all the

1 R. LOMBARDO

2 Salesforce training.

3 Q. What did you do?

4 A. I would help them out if they had  
5 questions. We were in a very small room in the  
6 back. So if new people had questions, I would  
7 answer those for them.

8 Q. And was that only face-to-face  
9 training, or did you sometimes do remote  
10 training for the other salespeople?

11 A. It would be face-to-face. I only  
12 did the ones for the Cleveland office if they  
13 were sitting by me.

14 Q. And this indicates Salesforce  
15 training and product software training. What  
16 was the purpose of the Salesforce training that  
17 you provided?

18 A. Just show them how we utilize  
19 Salesforce.

20 Q. And, again, what's the ultimate  
21 purpose of that?

22 A. I guess to keep it consistent so  
23 that people aren't using it different ways.

24 Q. And what about the training with  
25 respect to product software? That's obviously

1 R. LOMBARDO

2 referring to JobsEQ?

3 A. Yes.

4 Q. Who did you train on JobsEQ?

5 MS. COOPER: Objection to the form.

6 Go ahead.

7 A. The new account managers would sit  
8 in on our demos. They would either call in or  
9 sit next to our desk and just listen to the way  
10 that we do demos.

11 Q. And did you answer questions from  
12 the new account managers about how to use  
13 JobsEQ?

14 A. Yeah. If they had questions I would  
15 answer them.

16 Q. Did you sometimes show them features  
17 one-on-one?

18 A. Yeah. If they had questions, I had  
19 no problem helping the colleague out.

20 Q. And how often did you do that?

21 A. Not often, if they asked. I  
22 definitely didn't do it to everyone. I did it  
23 to the ones that asked and wanted.

24 Q. Can you estimate for me? Once a  
25 day? Once a week? Three times a day?

1 R. LOMBARDO

2 A. Once a -- less than once a month on  
3 average. Once they were on board, I didn't  
4 help them out with stuff like that. So it was  
5 only for new hires.

6 Q. With respect to new hires that had  
7 just come on board, how often did you help them  
8 with respect to the JobsEQ training?

9 A. Well, the manager at the time would  
10 assign them to sit in on our demos. It might  
11 be twice a week maybe until they get up and  
12 running. The managers would just assign the  
13 new account reps to sit in on whatever demos  
14 the current account managers had for that week.

15 Q. Okay. Looking back at your resume,  
16 the next sentence in the second bullet point  
17 says: Develops and instructs Salesforce and  
18 selling best practices for the company.

19 What did that entail?

20 A. I guess this is stating how we used  
21 Salesforce internally or how we have been using  
22 Salesforce internally.

23 Q. Can you give me an example of a  
24 Salesforce best practice that you developed?

25 A. No, not off the top of my head.

1 R. LOMBARDO

2 Q. Can you give me an example of a  
3 selling best practice that you developed?

4 A. Other than calling people a lot, not  
5 much. My best practices is just making a lot  
6 of phone calls.

7 Q. Was that statement true,  
8 Mr. Lombardo, that you developed and instructed  
9 Salesforce and selling best practices for the  
10 company?

11 A. I guess not.

12 Q. Third bullet point: Manages and  
13 operates eight to ten industry trade shows and  
14 conferences per year. I think you testified  
15 that the eight to ten number is inaccurate; is  
16 that right?

17 A. Correct.

18 Q. What's the accurate number?

19 A. Probably four to six.

20 Q. Why did you double it in your  
21 resume?

22 A. I'm not sure.

23 Q. What does the management and  
24 operation of industry trade shows involve?

25 A. Setting up the booth and just being

1 R. LOMBARDO

2 at the booth throughout the conference. We  
3 only send -- we generally only send one  
4 person to a lot of the smaller conferences.  
5 Arrange to send out the booth materials and  
6 then set up and tear down the booth.

7 Q. So setting up the booth, tearing  
8 down the booth, and arranging for materials to  
9 be shipped; is that right?

10 A. Yes.

11 Q. Anything else?

12 A. Other than talking to prospects and  
13 things of that nature there, I was doing what  
14 you were supposed to do at the conference.

15 Q. So it's your testimony that managing  
16 and operating industry trade shows involves  
17 setting up and tearing down the booth,  
18 arranging for materials, and talking to  
19 prospects; is that correct?

20 A. Yes.

21 Q. Is there anything else that you  
22 contend constitutes the management and  
23 operation of industry trade shows as it's  
24 described in your resume?

25 A. Not that I can think of.

1 R. LOMBARDO

2 Q. Any particular reason you chose the  
3 word "management" there?

4 A. Again, I did not come up with any of  
5 the wording here. I paid a professional resume  
6 writer to do this.

7 Q. I assume you read it before you sent  
8 it out, right?

9 A. Yes.

10 Q. Is there any reason you didn't  
11 change the word "management"?

12 A. No. I went with what they -- the  
13 professional resume writer thought was best.

14 Q. How long did these conferences  
15 usually last?

16 A. Could be as short as 1 day, as long  
17 as 3 days, maybe 4 for one. But usually 1 to  
18 3 days maybe.

19 Q. Are they spread out through the  
20 entire year, or is it seasonal?

21 A. Spread out over the entire year.

22 Q. When you gave me the number of four  
23 to six, is that the number that you attended?

24 A. Yes, that's the number that I  
25 personally attended. The company as a whole

1 R. LOMBARDO

2 attended more.

3 Q. And I take it that some conferences  
4 are better than others in terms of being able  
5 to get prospects?

6 A. Yeah.

7 Q. Did you -- well, in what way?

8 A. Well, it would really depend. I  
9 always thought NAWB was the best conference,  
10 the National Association of Workforce Boards,  
11 it kind of brought in a lot of different  
12 people, whereas the IEDC conference kind of had  
13 the same people at it every year. I personally  
14 liked the smaller conferences, the state  
15 conferences. They were a smaller group, and it  
16 was able to interact with people.

17 Q. And did you ever discuss your  
18 opinion with anybody at Chmura about these  
19 conferences?

20 A. Yes, they would ask for feedback on  
21 the conferences.

22 Q. And did you provide that feedback?

23 A. Yes.

24 Q. And did Chmura make any changes  
25 about what conferences it attended based on



1 R. LOMBARDO

2 your feedback?

3 A. Not that I can recall. I'm sure  
4 sometimes they did.

5 Q. The next line in your resume says:  
6 Developed new marketing and sales processes to  
7 improve conference performance.

8 What did that entail?

9 A. I'm sorry?

10 Q. Sure. Can you see what I've  
11 highlighted? If you can't see it --

12 MS. COOPER: He's just clicking  
13 through to get to it. Just bear with him.

14 Q. Tell me when you're there.

15 A. Yep.

16 Q. So the language I read was:  
17 Developed new marketing and sales processes to  
18 improve conference performance.

19 What did that entail?

20 A. I'm not sure.

21 Q. Well, if you don't know what it  
22 means, can you tell me whether it's accurate?

23 A. I guess not.

24 (Plaintiff's Exhibit K marked for  
25 identification.)

1 R. LOMBARDO

2 Q. All right. I am sending you what  
3 has been marked as Exhibit K. I show it as  
4 being 2 pages long. So take a look at it and  
5 let me know when you're ready to talk about it.

6 A. Okay.

7 Q. This is an email between you and a  
8 client named Christian Duran; is that right?

9 A. Yep.

10 Q. And it's dated at least at the top  
11 of the last email, June 4th, 2018?

12 A. Yep.

13 Q. The bottom of page 1 has an email  
14 that starts out: Rick, thank you again so very  
15 much for these specialty requests.

16 Do you see that?

17 A. Yes.

18 Q. What specialty requests is he  
19 referring to?

20 A. I'm not sure.

21 Q. Do you know what specialty requests  
22 are generally in the course of Chmura's  
23 business?

24 A. No.

25 Q. Not a term of art of any kind?

1 R. LOMBARDO

2 A. I don't know what it would have  
3 been.

4 Q. Do you know what, in any context, he  
5 is thanking you for here in the bottom email of  
6 Exhibit K?

7 A. Looks like data that I provided.

8 Q. So tell me a little bit more about  
9 that. A JobsEQ client purchases a  
10 subscription?

11 A. Yes.

12 Q. And in what situation would a client  
13 then reach out to you to ask for data?

14 A. If it was something outside of their  
15 region.

16 Q. And do the subscriptions, are they  
17 based generally on region?

18 A. Yes.

19 Q. So if a client buys a subscription  
20 that covers Region A and they want a piece of  
21 data from Region B, that might be a situation  
22 where they would reach out to you and ask you  
23 to provide it?

24 MS. COOPER: Objection as to form.

25 But go ahead.

1 R. LOMBARDO

2 A. Yes.

3 Q. And can you tell by the content or  
4 context of this email if that's what was going  
5 on here in Exhibit K?

6 A. Yes.

7 Q. And if you read on in the email at  
8 the bottom of page 1, it says: Below are the  
9 details of the further needed information. And  
10 then he lists several locations. Do you see  
11 that?

12 A. Yes.

13 Q. Do you know what he was asking for  
14 in that email?

15 A. Looks like data.

16 Q. And how often did this occur that a  
17 client would reach out to you with a data  
18 request?

19 A. Occasionally.

20 Q. Did you ultimately provide -- is it  
21 Mr. Duran or Ms. Duran?

22 A. Mr. Duran.

23 Q. Did you ultimately provide Mr. Duran  
24 with what he was asking for here?

25 A. It appears so.

1 R. LOMBARDO

2 Q. Did you charge him a fee?

3 A. I don't -- I'm not aware.

4 Q. Is it common to charge a client for  
5 a fee for a data request like this?

6 MS. COOPER: Objection. Answer, if  
7 you can.

8 A. No.

9 Q. Is this one of the things that you  
10 did to help build your relationship with your  
11 clients?

12 MS. COOPER: Objection. Go ahead.

13 A. Well, yes. If I got management  
14 approval.

15 Q. Who did you seek approval from with  
16 respect to this request?

17 A. Most likely would have been Ethan  
18 Trombley based on the date.

19 Q. And how did you seek that approval?  
20 Verbally or in writing?

21 A. Almost everything with the managers  
22 in Cleveland were verbal. I would just walk in  
23 to his office or have him come back to my desk.

24 Q. And did you memorialize the  
25 authority that Mr. Trombley gave you to provide

1 R. LOMBARDO

2 the data recorded in Salesforce, anything like  
3 that?

4 A. I'm not sure. I would just ask him  
5 for approval.

6 Q. And is that the same process that  
7 you followed with all of your other supervisors  
8 that you described earlier in the day?

9 A. Yes. The vast majority of it, have  
10 a conversation with them if the client wanted  
11 something.

12 Q. And is that the process that you  
13 followed each time you got a request from a  
14 client for data?

15 A. To my knowledge, yes.

16 Q. Is there a policy anywhere that you  
17 can identify that requires you to get prior  
18 approval before giving data to a client for a  
19 request like this?

20 A. No.

21 Q. Did anybody specifically tell you at  
22 any point during your employment that you were  
23 required to get approval from your manager in  
24 order to satisfy a client request for data?

25 A. Yes, it would have been Leslie

1 R. LOMBARDO

2 because there's a charge to it, because there  
3 is a cost. I would have to get approval to not  
4 charge them that cost.

5 Q. And how is that recorded in any of  
6 Chmura's systems, if you know?

7 A. I do not know.

8 Q. When did Ms. Peterson tell you that  
9 you had to get prior approval for any data  
10 requests?

11 A. I believe it was in a sales team  
12 meeting. I'm not sure when.

13 Q. Do you remember what year?

14 A. No.

15 Q. Where was the meeting?

16 A. I would have been in Cleveland.

17 Q. Who else was there?

18 A. Austin Steele, I'm sure, was there.  
19 I'm not sure what time frame it was. All the  
20 account managers at the time.

21 Q. And to the best of your  
22 recollection, Mr. Lombardo, what did  
23 Ms. Peterson say about this subject?

24 A. To get prior approval from your  
25 management.

1 R. LOMBARDO

2 Q. Did you ask her any questions about  
3 it?

4 A. Not that I can recall.

5 Q. Do you recall any instance in which  
6 that instruction, that you needed to get prior  
7 approval from management before answering a  
8 data request, was ever put in writing?

9 A. Not that I could recall.

10 (Plaintiff's Exhibit L marked for  
11 identification.)

12 Q. I'm going to show you what I am  
13 marking as Exhibit L. All right. Tell me if  
14 you can see Exhibit L. And that one has got  
15 4 pages, Mr. Lombardo, so make sure you peruse  
16 the whole thing.

17 A. Okay.

18 Q. Exhibit L is another series of email  
19 exchanges between you and Mr. Duran?

20 A. Yep.

21 Q. And this looks like another data  
22 request; is that correct?

23 A. Yes.

24 Q. Do you specifically remember  
25 obtaining approval from someone at Chmura



1 R. LOMBARDO

2 before satisfying this data request?

3 A. I don't remember specifics on it.

4 Q. Is there anything that would refresh  
5 your recollection about whether or not you  
6 specifically requested approval for this?

7 A. Not that I could think of.

8 (Plaintiff's Exhibit M marked for  
9 identification.)

10 Q. Okay. I'm going to show you what  
11 I'm marking as Exhibit M, as in Mary. Can you  
12 see Exhibit M?

13 A. It did not load up yet. There it  
14 is.

15 Q. Let me preface this a little bit  
16 before you start to look at it. This is a  
17 series of what appear to be unrelated emails  
18 between you and someone named Samantha  
19 Solanics.

20 A. Uh-huh.

21 Q. Take as much time as you want to  
22 look through these, but I'm going to ask you  
23 the same general questions about all of the  
24 messages.

25 A. Okay. I've read through.

1 R. LOMBARDO

2 Q. Who is Samantha?

3 A. She was the sales support  
4 coordinator.

5 Q. And why did you send her these  
6 messages?

7 A. She's the one that had to make  
8 changes to the platform.

9 Q. And what changes in general terms  
10 were you asking her to make with respect to  
11 these messages?

12 A. Adding or subtracting users, setting  
13 up a license, things of that nature.

14 Q. Did she also satisfy the data  
15 requests that we were just talking about?

16 A. No, not to my knowledge.

17 Q. So let's take as an example the  
18 first page, then. You send her a message that  
19 says: Can you please add the entire state of  
20 Washington to the Pacific Mountain Workforce  
21 Development Board account, right?

22 A. Yeah.

23 Q. Is that something that the client  
24 paid for?

25 A. I don't recall if this client --

1 R. LOMBARDO

2 Q. I'm sorry, Mr. Lombardo. I lost  
3 you, your audio there for a second.

4 A. I don't recall.

5 Q. And I'll ask the same questions --  
6 well, let's just qualify this. The other  
7 emails are requests that are similar in nature  
8 with respect to specific licenses, right?

9 MS. COOPER: Objection as to form.

10 But go ahead and answer.

11 A. Yes.

12 Q. And do you know if any of these  
13 changes that are requested in your emails were  
14 paid or unpaid?

15 A. I do not know.

16 Q. Do you specifically recall getting  
17 any prior approval for requesting these changes  
18 for Ms. Solanics?

19 A. No, I don't remember specifics on  
20 these.

21 Q. And I'll ask you the same question  
22 that we asked about the data requests. Was  
23 there a written policy that required you to get  
24 prior manager approval before requesting  
25 changes like those that are reflected in

1 R. LOMBARDO

2 Exhibit M?

3 A. No, I'm not familiar with a written  
4 policy.

5 Q. And did anybody tell you verbally  
6 that you couldn't make these requests without  
7 prior management approval?

8 A. Again, just the conversation in the  
9 sales meeting.

10 Q. So this is the same conversation  
11 that you referenced earlier with respect to  
12 data requests?

13 A. Yes.

14 Q. And was that only conveyed to you  
15 one time during your employment?

16 A. No.

17 Q. When else were you told that you had  
18 to get prior management approval?

19 A. I mean, from our managers as well,  
20 you know. The managers had come to them for  
21 issues like this.

22 Q. When you say "come to them," did  
23 they specifically say that you needed to get  
24 prior approval? Or were they offering to help  
25 you out with this issues?

1 R. LOMBARDO

2 A. Prior to sending stuff like this  
3 out, management would want to know first.

4 Q. Now, who said that and when?

5 A. I remember Kyle saying that. I  
6 don't remember the date. And Eli would say  
7 that as well because that way if there was any  
8 blow-back it would be on him so they would kind  
9 of shield the sales team from leadership being  
10 potentially upset.

11 Q. Did any of your managers ever refuse  
12 a request that you made to either provide data  
13 or to add to a license for a client?

14 MS. COOPER: Objection to the form.  
15 But go ahead and answer.

16 Q. Did you understand my question?

17 A. I don't recall any specific.

18 Q. Let me just clean that up.

19 You said that one time, Ms. Peterson  
20 indicated that you had to get prior management  
21 approval in order to provide additional data or  
22 additional licensing for the software, correct?

23 A. Yes.

24 Q. And your individual managers told  
25 you that you could come to them with issues

1 R. LOMBARDO

2 like this so that the leadership would not  
3 become upset; is that right?

4 A. Yeah.

5 Q. And it's your testimony that you did  
6 take these issues to your managers just as they  
7 had requested?

8 A. Yeah.

9 Q. During your entire employment at  
10 Chmura, did any of your managers reject any of  
11 those requests?

12 A. I can't recall.

13 Q. You can't, sitting here today, cite  
14 any examples of any of your requests or  
15 recommendations in that regard being rejected,  
16 correct?

17 A. Correct.

18 (Plaintiff's Exhibit N marked for  
19 identification.)

20 Q. All right. Mr. Lombardo, I'm  
21 showing you hopefully what's been marked as  
22 Exhibit N, a 2-page document. Take your time  
23 and tell me when you've had a chance to look at  
24 it.

25 A. I've read it.

1 R. LOMBARDO

2 Q. This is an email exchange between  
3 you and someone named Michelle Bauer in  
4 January 2018; is that right?

5 A. Yes.

6 Q. Was she a client or prospect at that  
7 time?

8 A. I believe they were already a  
9 client, I believe.

10 Q. But you were discussing an  
11 additional purchase with her?

12 A. Yes.

13 Q. And your email, sort of the second  
14 one from the top there says: Hi Michelle and  
15 Robin, the additional cost for an API feed is  
16 \$4,350. And then skipping onto the next  
17 sentence you say: This is a 50 percent  
18 nonprofit discount on the setup fee and an  
19 additional discount due to the pre-existing  
20 relationship you already have. Obviously I'm  
21 not reading the whole thing. But you wrote  
22 that, correct?

23 A. Correct.

24 Q. Do you recall what the additional  
25 discount was?

1 R. LOMBARDO

2 A. I do not.

3 Q. How did you arrive at these discount  
4 amounts that you put in this email?

5 A. I would have worked with Ethan and  
6 Greg at that point to come up with the pricing.

7 Q. Did you recommend a number different  
8 than the 50 percent?

9 A. I don't recall.

10 Q. Do you recall who among the three of  
11 you, Ethan, Greg, and yourself, arrived at the  
12 number 50 percent?

13 A. I do not.

14 Q. You don't know who made the  
15 suggestion?

16 A. I don't recall.

17 Q. Could have been you?

18 MS. COOPER: Objection. You can  
19 answer.

20 Q. Right?

21 A. I don't believe so.

22 Q. Why not?

23 A. I didn't have the authority to make  
24 decisions like that.

25 Q. Did you make recommendations about



1 R. LOMBARDO

2 discounts?

3 A. I would talk to them about the  
4 situation.

5 Q. And you told them what you thought  
6 would be necessary in order to win the  
7 business, right?

8 MS. COOPER: Objection to form. It  
9 calls for speculation too.

10 Q. You can answer.

11 MS. COOPER: You can answer.

12 A. Yes.

13 Q. That was part of your job as an  
14 account manager, right?

15 MS. COOPER: Objection.

16 A. Yes, I was the one speaking with the  
17 client, so I would let them know what happened  
18 in the conversation.

19 Q. And didn't you also tell them what  
20 you thought would be necessary in order to get  
21 the sale?

22 A. I would pass on the information that  
23 the client would provide me.

24 Q. And did you make recommendations  
25 about what discount would be necessary in your

1 R. LOMBARDO

2 mind in order to win business?

3 A. I would pass along the information I  
4 have.

5 Q. Well, that's not exactly my  
6 question. My question is: Did you make  
7 recommendations about what level of discount  
8 you thought would be necessary to win the  
9 business?

10 A. Yes.

11 Q. And how did you come up with those  
12 recommendations?

13 A. Based on conversations with the  
14 client.

15 Q. And based on your prior experience?

16 MS. COOPER: Objection. Go ahead  
17 and answer.

18 A. Well, based on whatever the client's  
19 and my conversation was.

20 Q. Did you ever recommend a discount  
21 that was rejected by your management?

22 A. Yes.

23 Q. Can you provide me with specifics on  
24 when that happened?

25 A. The one that comes to mind is AECOM,

1 R. LOMBARDO

2 A E C O M. They flat out told me EMSI quoted  
3 them 18,000. We were well above 25,000. I  
4 remember speaking with Greg and Ethan at the  
5 time stating they will go with us if we matched  
6 the 18,000. Leslie -- they then approached  
7 Leslie with it because they did not have the  
8 authority to do that, and Leslie came down to  
9 22,000, and they ended up going with EMSI.

10 Q. Any other examples you can provide  
11 in which your discount recommendation was  
12 rejected by management?

13 A. Not that I could think of off the  
14 top of my head.

15 Q. With respect to Exhibit N, and I  
16 apologize if I asked this earlier, do you  
17 specifically recall seeking approval from  
18 someone in order to offer the 50 percent  
19 discount that's identified here?

20 A. I'm sure I would have spoke with  
21 Greg and Ethan about that.

22 Q. Are you answering based on what you  
23 think happened or what you specifically recall  
24 happening?

25 A. What I recall happening.

1 R. LOMBARDO

2 Q. So do you specifically recall  
3 discussing this account with Ethan and Greg in  
4 January 2018?

5 A. Well, all API discussions were -- we  
6 had with Greg because this was new at the time.

7 Q. I understand. I'm asking you about  
8 your specific memory of a conversation in which  
9 this 50 percent discount was discussed. Do you  
10 remember such a conversation?

11 A. I don't remember specifics about the  
12 conversation, no.

13 (Plaintiff's Exhibit O marked for  
14 identification.)

15 Q. Showing you what's been marked as  
16 Exhibit O, tell me when you've had a chance to  
17 take a look at that.

18 A. Yes, I'm familiar with that.

19 Q. This is an email exchange between  
20 you and someone named Richard Williams?

21 A. Yep.

22 Q. March of 2017?

23 A. Yes.

24 Q. And you are discussing with  
25 Mr. Williams the purchase of a license for

1 R. LOMBARDO

2 JobsEQ, correct?

3 A. Correct.

4 Q. And then down in the third  
5 paragraph, again, you're offering him a  
6 50 percent discount off the second license if  
7 somebody else also purchases; is that right?

8 A. Well, that was actually our standard  
9 pricing as an umbrella package.

10 Q. Okay. So did you -- you didn't have  
11 to obtain prior approval on this one because it  
12 was part of the standard pricing?

13 A. If they both moved forward, yes,  
14 that's how it worked.

15 Q. Did you talk with anybody in  
16 management about this specific offer that you  
17 made?

18 A. I would have spoke with Kyle West  
19 about it.

20 Q. And, again, I'm not asking so much  
21 what you would have done. I'm asking what you  
22 specifically recall doing. And I know that's a  
23 subtle difference, but it's important.

24 A. I don't recall specifics.

25 Q. You don't recall a specific

1 R. LOMBARDO

2 conversation with anybody at Chmura prior to  
3 making this offer about the 50 percent discount  
4 to this client, right?

5 MS. COOPER: Objection. You can  
6 answer.

7 A. No.

8 (Plaintiff's Exhibit P marked for  
9 identification.)

10 Q. Showing you what's been marked as  
11 Exhibit P, Mr. Lombardo, this one is a little  
12 bit longer. I think it's 5 pages. So take  
13 your time, and tell me when you've had a chance  
14 to look at it. If it helps, I'm going to ask  
15 you about the third page, but you look at  
16 whatever you need to.

17 A. Okay. Yes. I see that.

18 Q. This is another email exchange with  
19 a client in which you're quoting her certain  
20 pricing; is that correct?

21 A. Correct.

22 Q. And there is a reference to  
23 20 percent discount on the third page of  
24 Exhibit P. Do you see that?

25 A. I do.

1 R. LOMBARDO

2 Q. What was the basis for that  
3 discount?

4 A. I worked with Greg Chmura to come up  
5 with pricing for this client specifically.

6 Q. Okay. Did you recommend the  
7 20 percent discount to Greg?

8 A. No.

9 Q. How did the number 20 percent come  
10 up? How did you get there?

11 A. That would have come from Greg.

12 Q. Do you specifically remember talking  
13 with Greg about this 20 percent discount offer?

14 A. Greg's the one that put together the  
15 pricing. I don't remember specifics.

16 Q. All right. Let's break that down.

17 Greg's role at Chmura was to put  
18 together pricing; is that what you're saying?

19 A. At this time, yes. I think this was  
20 between when Curtis Monk left and when Eli  
21 arrived, so I had to work with Greg to get  
22 approval.

23 Q. Okay. And then back to my original  
24 question: Do you specifically remember  
25 conversations with Greg about this offer, the

1 R. LOMBARDO

2 20 percent discount?

3 A. Yes.

4 Q. Tell me where those conversations  
5 occurred and what you specifically remember  
6 about them?

7 MS. COOPER: Objection as to form.

8 But go ahead.

9 A. They occurred in his office. I let  
10 him know that two of these are already current  
11 clients of ours, and they wanted to have  
12 upwards of eight licenses and what he would  
13 recommend for pricing.

14 Q. So you went to him and asked him  
15 what he would recommend for pricing, and his  
16 response was 20 percent?

17 A. I don't think he had an answer for  
18 me at that point. I think I provided him  
19 information and then he thought about it and  
20 maybe the next day or so, we came up with a  
21 pricing model.

22 Q. Did you make any recommendations to  
23 him about what kind of discount you thought  
24 should be provided?

25 A. No.



1 R. LOMBARDO

2 Q. Did you express any concerns about  
3 the 20 percent number to Greg?

4 A. Not that I recall.

5 Q. Did you indicate to him whether you  
6 thought that would be an acceptable number to  
7 the client?

8 A. I don't recall.

9 Q. Is there anything else about the  
10 conversation that you recall?

11 A. No, just that I informed him two of  
12 these groups were clients, so to take that into  
13 consideration when filling out the rest of the  
14 pricing.

15 (Plaintiff's Exhibit Q marked for  
16 identification.)

17 Q. I am showing what I am marking as  
18 Exhibit Q, and tell me when you've had a chance  
19 to look at that.

20 A. Okay. I've had a chance to look at  
21 it.

22 Q. And, again, I'm just focused on the  
23 first page, and I suspect you know what  
24 questions I'm going to ask. But this is a  
25 situation where you're offering someone a

1 R. LOMBARDO

2 discount on JobSEQ, correct?

3 A. Correct.

4 Q. And the same discussion we've been  
5 having with respect to the others: How did you  
6 get to the point of offering these numbers?

7 A. Yeah, met with management about this  
8 again. The reason it was this number is  
9 because they worked closely with a client  
10 that's a neighbor of them, and they knew what  
11 they were paying.

12 Q. All right. So, again, you said  
13 "would have talked to management." Do you  
14 specifically recall talking to anyone in  
15 management about this offer?

16 A. I don't recall a specific  
17 conversation.

18 Q. Do you know who came originally with  
19 the idea of a \$5,500 license fee for this  
20 client?

21 A. It would have been to match what  
22 they're currently -- what Mobile County was  
23 currently paying.

24 Q. So that was something that they told  
25 you and you brought back to Chmura?

1 R. LOMBARDO

2 A. Yes. I remember -- I think his name  
3 was Tanner worked closely with them, so they  
4 knew what they were currently paying and they  
5 wanted to get that rate. So I would have then  
6 asked management at that time with the approval  
7 to move forward with the old rate.

8 Q. And, again, sort of same question  
9 we've been discussing, Mr. Lombardo, do you  
10 specifically recall who in management you  
11 asked?

12 A. No, I do not remember a specific  
13 conversation on this one.

14 Q. Okay. Do you have, in your mind,  
15 any authority to offer a discount without  
16 management approval?

17 A. I was told I was, but I didn't feel  
18 like I actually had the discretion.

19 Q. Who told you?

20 A. I am not even sure -- I don't  
21 recall.

22 Q. What were you told?

23 A. We were told 10 percent.

24 Q. And was that number ever changed?

25 A. Yes.

1 R. LOMBARDO

2 Q. What was it changed to?

3 A. I don't recall. I think it may have  
4 changed a couple of times. I'm not sure. I  
5 think I was told 30 at one point.

6 Q. Okay. Do you know if that  
7 30 percent also applied to another rep named  
8 Austin Steele?

9 A. I don't know. I assume so, but I  
10 don't know.

11 Q. But I guess do you know if you were  
12 both told that at the same time? Were you in  
13 the room together or something like that?

14 A. I don't -- I don't recall.

15 Q. Do you remember who it was that told  
16 you that you had authority to offer up to a  
17 30 percent discount?

18 A. No, I don't recall.

19 Q. Do you remember when you were told  
20 that you had the authority to offer up to a  
21 30 percent discount?

22 A. I don't recall.

23 Q. Do you remember if that was told to  
24 you in person or over the phone?

25 A. I really don't recall.

1 R. LOMBARDO

2 Q. Anything else you do recall about  
3 being told you could offer up to a 30 percent  
4 discount?

5 A. No.

6 Q. And you said that the number started  
7 out at some point at 10 percent. Do you  
8 remember when that was?

9 A. I don't. And that may have been if  
10 they signed a 3-year contract. I don't recall.

11 Q. And if I asked, I apologize. But do  
12 you remember when your authority was changed to  
13 30 percent?

14 MS. COOPER: Objection as to form.

15 A. I do not recall.

16 (Plaintiff's Exhibit R marked for  
17 identification.)

18 Q. Showing you what's being marked as  
19 Exhibit R. And I will tell you if it helps in  
20 reviewing this document, this document was  
21 originally produced as a spreadsheet but it's  
22 been converted from Excel to this format to  
23 make it easier to show. So it may look a  
24 little different, but go ahead and take a look  
25 at it.

1 R. LOMBARDO

2 A. Okay.

3 Q. Do you recognize it, Exhibit R?

4 A. Yes.

5 Q. What is that?

6 A. One of our pricing matrices.

7 Q. And what is a pricing matrix as  
8 opposed to a price list, as I would probably  
9 call it?

10 A. I'm not real sure.

11 Q. Is it basically the price list for  
12 JobsEQ?

13 A. Yes.

14 Q. Okay. And you mentioned something I  
15 think in response to my last couple of  
16 questions about a discount for multiyear  
17 contracts?

18 A. Yes.

19 Q. If you take a look at Exhibit R,  
20 under the heading Discounting Tools, the first  
21 one there references multiyear discounts. Is  
22 that what you were talking about earlier?

23 A. Yes.

24 Q. All right. And then what I wanted  
25 to ask you about is No. 2, which says: Can

1 R. LOMBARDO

2 take up to 10 percent off the list price but  
3 never drops lower than 5,000.

4 Do you see that?

5 A. Yes.

6 Q. What did you understand that to  
7 mean?

8 A. That I had a 10 percent authority in  
9 the pricing.

10 Q. And that applied to all account  
11 managers?

12 A. To my knowledge, yes.

13 Q. And did you use -- I'm sorry. Go  
14 ahead.

15 A. I see on the pricing matrix, it  
16 would be for all account managers.

17 Q. Understood. And you considered --  
18 when it was 10 percent, you considered this to  
19 be 10 percent that you could offer in order to  
20 win business, right?

21 MS. COOPER: Objection as to form.

22 Go ahead.

23 A. Yes.

24 (Plaintiff's Exhibit S marked for  
25 identification.)

1 R. LOMBARDO

2 Q. All right. I'm showing you Exhibit  
3 S, as in Sam. I lost you, Mr. Lombardo.

4 MS. COOPER: Yeah. Can we go off  
5 the record for a minute so I can get this  
6 back up.

7 MR. SATTERWHITE: Sure.

8 THE WITNESS: Apologies.

9 MR. SATTERWHITE: No problem. I'll  
10 do it before the end of the day, I'm sure.

11 (A short break was taken.)

12 MR. SATTERWHITE: So we're going  
13 back on, Rachel.

14 Q. Back on the record, Mr. Lombardo.  
15 I'm showing you what has been marked Exhibit S,  
16 as in Sam. Take a look at that.

17 A. Okay.

18 Q. Again, you can read the whole thing.  
19 It's 13 pages. I'm only going to ask you about  
20 page 1.

21 A. I see that.

22 Q. This is an email from you to Hannah  
23 Whisenant on July 10, 2018, correct?

24 A. Correct.

25 Q. It's about an invoice to a client?



1 R. LOMBARDO

2 A. Correct.

3 Q. And you tell Hannah -- who is  
4 Hannah, by the way?

5 A. She was the finance  
6 manager/accounting person at the time.

7 Q. So you're asking her to get an  
8 invoice out to one of your clients basically,  
9 right?

10 A. Yes.

11 Q. And you say in the last paragraph of  
12 this email: I used my allotted 10 percent  
13 discount to cover the 1 percent fee when they  
14 pushed back on it.

15 Do you see that?

16 A. Yes.

17 Q. And the allotted 10 percent discount  
18 that you're referring to in this email, is that  
19 the 10 percent discount that we just discussed  
20 in the pricing matrix?

21 A. Yes. Yes.

22 Q. Did you get any advanced approval in  
23 order to apply your allotted 10 percent  
24 discount here?

25 A. Not that I can recall.

1 R. LOMBARDO

2 Q. When you say "when they pushed back  
3 on it," do you remember what you were referring  
4 to there?

5 A. I think a quarterly fee that we  
6 would charge them if they paid quarterly.

7 Q. And when you say "pushed back," I  
8 take it the client didn't want to pay the fee?

9 A. Yeah, from what I can recall.

10 Q. And you decided to apply your  
11 discount so they wouldn't have to pay it,  
12 right?

13 A. Apparently.

14 Q. And that was your decision?

15 A. Yes.

16 MR. SATTERWHITE: Christine, I'm at  
17 a break. It's 12:05. We can either keep  
18 going or I don't know where you land on  
19 lunch.

20 THE WITNESS: I'd push through.

21 MS. COOPER: I don't know how much  
22 longer you have, and I won't put you on the  
23 spot. If you want to keep going, we're  
24 fine moving forward.

25 MR. SATTERWHITE: I've got several

1 R. LOMBARDO

2 more hours, so I suspect you're going to  
3 want to take a break at some point.

4 MS. COOPER: Then I think a lunch  
5 will be good.

6 MR. SATTERWHITE: Okay. How much do  
7 you need?

8 MS. COOPER: 30 minutes. That  
9 should give us enough time.

10 MR. SATTERWHITE: Sounds good to me.  
11 All right. We're off the record. You guys  
12 have a good lunch.

13 (A lunch break was taken.)

14 MR. SATTERWHITE: All right. Back  
15 on the record.

16 Q. Mr. Lombardo, are you familiar with  
17 a product called Clippy, C L I P P Y?

18 A. No. But in JobsEQ?

19 Q. No, I believe it's a product or a  
20 feature of one of your competitors.

21 A. Oh, yeah.

22 Q. What is it?

23 A. I think it's a tool that's used to  
24 bind reports together, if I remember correctly.

25 Q. And whose tool is it?

1 R. LOMBARDO

2 A. EMSI's, I believe.

3 Q. Did you ever talk with anybody at  
4 Chmura about the possibility of Chmura  
5 developing a similar tool to use with JobsEQ?

6 A. Yes.

7 Q. Is that something that you brought  
8 back to Chmura as a result of your interaction  
9 with customers?

10 A. Yes.

11 Q. And did you tell Chmura that you  
12 thought it would be a good idea to have a  
13 competitive product like that?

14 A. Yes. I believe it was AIDT that  
15 didn't go with us at the time because they said  
16 they used that tool regularly.

17 Q. And do you know whether Chmura is in  
18 the process of developing a similar product?

19 A. Not that -- it was on the roadmap.  
20 I don't know where it would be.

21 Q. When you say "on the roadmap," what  
22 do you mean?

23 A. When I was there, there was a list  
24 of features to add, and there was 400 -- I  
25 think 3- to 400 different features to add over

1 R. LOMBARDO

2 time.

3 Q. So is it your understanding that  
4 this, I'll call it a Clippy competitor, that  
5 this feature was ultimately added to the  
6 roadmap after you brought it to the company's  
7 attention?

8 A. I don't know if it was on their --  
9 it may have been on there prior to me bringing  
10 it up, but I remember adding to that.

11 Q. I'm sorry. When you say adding to  
12 that, what do you mean?

13 A. They would keep a running list of  
14 every time a client or prospect would request  
15 something, we would pass that along and would  
16 add, like, a notch to it. And the more  
17 requests that came from clients or prospects,  
18 the higher it would move up on the list.

19 Q. Do you remember any specific  
20 conversations with anybody at Chmura about this  
21 tool?

22 A. No, not that I can remember.

23 Q. How about something called Firm  
24 List/Employer Database, do you know what that  
25 is?

1 R. LOMBARDO

2 A. Yep.

3 Q. Is that also a competitor's product,  
4 or is that a Chmura product?

5 A. It was a Chmura product, and it was  
6 a competitor product.

7 Q. In very brief terms, what does it  
8 do?

9 A. It provides a firm list of employers  
10 in the area.

11 Q. And did you ever -- how long has  
12 Chmura had that product, do you know?

13 A. I believe they added it in the last  
14 year I was there.

15 Q. And is this another feature that you  
16 reported back to Chmura about that you thought  
17 the customers wanted?

18 A. Yes. People have been asking for  
19 that since I started there.

20 Q. And do you know when Chmura  
21 developed it? I think you said the last year  
22 of your employment. Can you be any more  
23 specific?

24 A. I don't remember specifics. I don't  
25 believe they developed it. I believe they

1 R. LOMBARDO

2 partnered with Info Group, I believe.

3 Q. But they ultimately added the  
4 feature, right?

5 A. Yes.

6 Q. Do you remember any conversations  
7 with anybody at Chmura about adding that  
8 feature?

9 A. No specific conversations. I had  
10 several of them over in my tenure there.

11 Q. You did?

12 A. Yes. I would report back if we lost  
13 a deal or if, you know, if clients were  
14 requesting it, I would pass that information  
15 along.

16 Q. So when you lost a deal, did you try  
17 to analyze why you lost the deal?

18 A. Yeah, if the client didn't go with  
19 us, I would ask, you know, what made you either  
20 not go with us, go with a competitor and get  
21 the information from them and provide feedback  
22 as necessary.

23 Q. Did the clients always tell you why  
24 they didn't go with you?

25 A. Not always.

1 R. LOMBARDO

2 Q. And did you still try to figure it  
3 out?

4 A. Yeah.

5 Q. How did you go about that?

6 A. I would just ask them -- you know, I  
7 don't really know. I would send emails and  
8 things of that nature, but a lot of times they  
9 wouldn't respond once they said no to us or  
10 once they did not renew with us.

11 Q. And did you take any other steps at  
12 that point to try to understand why you lost  
13 that particular piece of business?

14 A. I'm not sure what you mean by the  
15 question.

16 Q. You indicated there were times when  
17 you lost business to a competitor, right?

18 A. Yep.

19 Q. And you'd follow up with the client  
20 to try to find out why you didn't get the  
21 business, correct?

22 A. Yes.

23 Q. And sometimes the client would tell  
24 you why they didn't give you the business, and  
25 sometimes they wouldn't, right?



1 R. LOMBARDO

2 MS. COOPER: Objection as to form.

3 Go ahead.

4 A. Yes.

5 Q. And I'm asking you about those times  
6 when the client did not report to you why you  
7 didn't get the business, did you take any  
8 steps -- you, Mr. Lombardo -- take any steps to  
9 try to further understand why you did not win  
10 that particular deal?

11 A. I would continue to reach out to the  
12 client to get ahold of them to see what their  
13 response was.

14 Q. Let me ask you about something  
15 called Career Concourse. I think you may have  
16 mentioned that at the beginning of the day this  
17 morning.

18 A. Yes.

19 Q. What is that?

20 A. A tool college students use to pick  
21 careers.

22 Q. And was that an existing Chmura  
23 product when you started?

24 A. I believe they had something of  
25 that. I'm not sure. I don't believe I ever

1 R. LOMBARDO

2 sold that.

3 Q. Did you tell anybody that you would  
4 have difficulty selling to the educational  
5 market unless that tool were improved or  
6 updated?

7 MS. COOPER: Objection as to form.

8 But go ahead.

9 A. Yes. A lot of the community  
10 colleges that were also using a competitor were  
11 using that tool.

12 Q. So what did you tell Chmura about  
13 that product or need associated with that  
14 product?

15 A. I passed along what was, you know,  
16 told to me from clients, that it was a product  
17 that they used.

18 Q. Anything else?

19 A. That they would -- you know, that we  
20 would need to get that to be competitive, I  
21 think. We were losing a lot of deals over  
22 that, I believe, at the time.

23 Q. Did you pursue business in the  
24 education market before the product was  
25 updated, the Career Concourse tool was updated?

1 R. LOMBARDO

2 A. I'm not sure when it was updated.

3 Q. Have you always pursued business in  
4 the education market when you were at Chmura?

5 A. Not always, no.

6 Q. When did that start?

7 A. I started in education in 2015. It  
8 was when we were able to go after everything.  
9 We then moved into verticals. And then in  
10 early 2017, they parsed out the education piece  
11 to other -- other account reps.

12 Q. So you were in the market from 2015  
13 to 2017?

14 A. Yes, sir. Part of what I sold to.

15 Q. Did it become a greater part of what  
16 you sold over that 2-year period?

17 MS. COOPER: Objection as to form.

18 A. Between 2015 and 2017?

19 Q. Yes.

20 A. I don't think it was the majority of  
21 what I sold to, no.

22 Q. And my question is: Did -- as a  
23 percentage, did your sales in the education  
24 market increase over that period?

25 A. I'm not sure.

1 R. LOMBARDO

2 Q. Did anybody disagree with you about  
3 the need to update the Career Concourse tool?  
4 Anybody at Chmura?

5 MS. COOPER: Objection. Go ahead.

6 A. Not that I can recall.

7 Q. Do you remember having any  
8 discussions with John Chmura about whether that  
9 update was necessary?

10 A. I don't remember any specifics. I  
11 remember he said it had been moved up on his  
12 agenda, but I don't remember specifics about  
13 it.

14 Q. Do you remember there being any  
15 disagreement about what kind of priority that  
16 project should receive?

17 A. I don't remember.

18 Q. And ultimately the product was  
19 updated within Chmura, correct?

20 A. Correct. I'm not sure when.

21 Q. Do you know what GDP is?

22 A. Yes.

23 Q. All right. What is it?

24 A. Gross domestic product.

25 Q. In the context of the JobsEQ

1 R. LOMBARDO

2 product, does it mean the same thing?

3 A. Yes.

4 Q. And have you had discussions about  
5 whether or not it was necessary for you to have  
6 that, for Chmura to have the GDP data in order  
7 to sell JobsEQ?

8 A. Yeah, along with many others, I  
9 would pass along requests from clients as they  
10 came in.

11 Q. Do you remember characterizing the  
12 GDP dataset as being critical to selling  
13 JobsEQ?

14 A. Not that I can recall.

15 Q. Do you remember specific discussions  
16 with anybody in which you recommended that  
17 Chmura purchase the GDP dataset?

18 A. I didn't even know it was a purchase  
19 piece. I thought it was something we would  
20 develop.

21 Q. Maybe I misspoke. But in terms of  
22 the need for the GDP dataset, do you remember  
23 having any specific discussions with anyone at  
24 Chmura about that need?

25 A. I don't remember any specific

1 R. LOMBARDO

2 conversations.

3 Q. And did the company eventually  
4 either develop or otherwise acquire it?

5 A. Yes.

6 Q. Last question or last topic on this  
7 front, are you familiar with something called  
8 Mega Table?

9 A. Yes.

10 Q. What is that?

11 A. For a very large dataset.

12 Q. Did you have discussions with anyone  
13 at Chmura about having Chmura develop something  
14 similar for its own use?

15 A. Yes.

16 Q. Who did you talk to about that?

17 A. Greg Chmura.

18 Q. And what was the nature of those  
19 discussions?

20 A. He sat in on a demo with me that I  
21 prospected at EMSI, and they were showing this  
22 Mega Table, and they told us that this is  
23 something they would need for some datasets.

24 Q. And did you reach any conclusions  
25 about whether that was a good idea?

1 R. LOMBARDO

2 A. I thought it would be a good idea.

3 Q. Did you tell anybody that?

4 A. I'm sure I passed it along.

5 Q. To whom?

6 A. Through the channels, I would have  
7 spoke with Greg about that. Generally I would  
8 speak with Greg about most additions to the  
9 platform.

10 Q. And do you know what, if any,  
11 actions the company took after those  
12 discussions happened? Excuse me.

13 A. I don't. I know that Greg looked  
14 into it. And they had other discussions about  
15 it, but I don't know what happened with it.

16 Q. Mr. Lombardo, how far is your house  
17 from your office or from the office where you  
18 worked for Chmura in Cleveland?

19 A. Maybe a little less than 30 minutes.

20 Q. And was that your average commute  
21 each way?

22 A. Yeah.

23 Q. I assume it varied some with  
24 traffic?

25 A. Yes.

1 R. LOMBARDO

2 Q. How many days a week did you  
3 typically go into the office to work?

4 A. Every day from 2015 through 2018,  
5 and then the beginning part of 2019. Then I  
6 was allowed to work from home 2 days a week in  
7 2019. I'm not sure the exact month.

8 Q. No problem. Did you work the same  
9 hours every day?

10 A. Not the exact same hours.

11 Q. What was the cause of a variance  
12 between -- well, strike that.

13 What caused your hours to change  
14 from one day to the next?

15 A. They would fluctuate within  
16 30 minutes of each other.

17 Q. But, I mean, why would you come in  
18 at a different time one day than you did the  
19 next day? What caused the differences?

20 A. How fast I would get ready.

21 Q. Anything else?

22 A. Not that I can think of.

23 Q. Did you have set work hours?

24 A. We were supposed to be in at 8:00  
25 a.m. and leave at 5:00 p.m.



1 R. LOMBARDO

2 (Plaintiff's Exhibit T marked for  
3 identification.)

4 Q. I'm showing you what's been marked  
5 Exhibit T, as in Tom.

6 A. Okay.

7 Q. Tell me if you can see it, and tell  
8 me if you recognize it once you've had a chance  
9 to look at it.

10 MS. COOPER: It hasn't been uploaded  
11 yet. I think we have a little lag time.

12 MR. SATTERWHITE: There you go. I  
13 think you have it now. It's a larger  
14 document.

15 A. I see those.

16 Q. Do you recognize them?

17 A. Yes.

18 Q. What are they?

19 A. Parking receipts.

20 Q. And what do they reflect?

21 A. Times I've been in the office.  
22 Times I would exit the parking garage and leave  
23 the parking garage.

24 Q. So these are all receipts from the  
25 parking deck that you used when you went to

1 R. LOMBARDO

2 work?

3 A. Yes.

4 Q. They don't cover parking for any  
5 other reasons other than going into the office  
6 and returning from the office, right?

7 A. No.

8 Q. And there's -- I think there's an in  
9 and out time on these. I forgot specifically  
10 what they're called, but ...

11 A. Yeah.

12 Q. Entry time and exit time, right?

13 A. Yes.

14 Q. And that reflects when you pulled  
15 into the parking deck, and it reflects when you  
16 pulled out of the parking deck?

17 A. Yes.

18 Q. And you used -- did you use the same  
19 parking deck throughout your employment with  
20 Chmura?

21 A. No.

22 Q. Are all of your -- is this -- are  
23 these receipts from multiple parking decks?

24 A. Yes.

25 Q. So are these all the receipts that

1 R. LOMBARDO

2 you have from your parking during your work at  
3 Chmura?

4 A. I found one stuffed in a nightstand,  
5 but other than that, yes.

6 Q. Most all?

7 A. Yes.

8 Q. How far -- how many different  
9 parking decks did you use?

10 A. It ranged -- once they upped the  
11 price, I found a cheaper lot. In the total  
12 times I parked there, downtown I used at least  
13 four different lots and would park on the  
14 street as well occasionally.

15 Q. So how far was the closest lot to  
16 the Chmura office?

17 A. Right across the street.

18 Q. And how far was the farthest lot to  
19 the Chmura office?

20 A. Maybe a block-and-a-half down.

21 Q. So can you give me --

22 A. The one that's a block-and-a-half  
23 down, the furthest one, they didn't have  
24 receipts. You paid a person.

25 Q. Can you just give me a range of how

1 R. LOMBARDO

2 long it took you to walk from the parking deck  
3 to office, depending on which deck you were  
4 using?

5 A. 3 minutes.

6 Q. And did you always go straight into  
7 the office, or did you stop for coffee or  
8 breakfast or anything like that in the morning?

9 A. I usually go to the office first  
10 thing.

11 Q. Did you then later go out for coffee  
12 and get breakfast?

13 A. I'd grab breakfast at Yours Truly  
14 next door on occasion.

15 Q. So that would be -- and just make  
16 sure I understand this, the chronology here.  
17 You drive to the parking deck. You'd go  
18 immediately from the parking deck to your  
19 office. But sometimes you would then go back  
20 out of the office in order to get breakfast  
21 next door. Did I get that right?

22 A. Yeah, next door. Yeah, I would call  
23 it in and go pick it up.

24 Q. But you didn't eat there; you'd just  
25 pick it up and bring it back to the office?

1 R. LOMBARDO

2 A. Yes.

3 Q. When you got to the office, did you  
4 have to swipe in with some sort of security  
5 card?

6 A. Yes.

7 Q. And did you do that pretty  
8 regularly?

9 A. Yes.

10 Q. Every day?

11 A. I want to say every day. I'm sure  
12 there might have been a time where I came in  
13 with somebody else and they had the door open  
14 for me or I may have forgotten my buzzer.

15 Q. And same sort of question,  
16 Mr. Lombardo. For the end of your workday, did  
17 you go straight from the office back to the  
18 parking deck? Or did you ever take a detour  
19 for any reason?

20 A. No, I'd go straight to the parking  
21 deck.

22 Q. You did not have to swipe to get  
23 out, right?

24 A. Correct.

25 Q. And were you ever responsible for

1 R. LOMBARDO

2 setting or disarming the alarm at the office?

3 A. Yes.

4 Q. Under what circumstances?

5 A. If I was the last one in the office,  
6 I would set it on my way out.

7 Q. So walk me through your usual  
8 routine when you got into the office. Did you  
9 have to log into a computer? Did you do  
10 something to get settled in? Did you go make  
11 yourself a cup of coffee? What was your  
12 typical routine like?

13 A. Get in the office. I'd immediately  
14 go to my computer. I'd log into my email.  
15 Salesforce, typically JobsEQ, and my LinkedIn.

16 Q. So when you say "I logged in to" --  
17 I'm sorry. Did I interrupt you? I was  
18 writing.

19 A. No.

20 Q. Okay. You identify four different  
21 things that you say you logged into: email,  
22 Salesforce, JobsEQ, and LinkedIn?

23 A. Yes.

24 Q. Each one of those required a  
25 separate login?

1 R. LOMBARDO

2 A. Yes.

3 Q. Did you also have a login for your  
4 computer?

5 A. Yes.

6 Q. And obviously you had to use that  
7 first?

8 A. Yes.

9 Q. And are we talking about your  
10 desktop computer?

11 A. Yes.

12 Q. So then in terms of your next set of  
13 tasks, what was your actual work like after you  
14 got logged into these systems?

15 A. I would start game planning my day  
16 out. If I had demos, I would start researching  
17 the areas for the demos. I would print maps  
18 out of those areas. I would research the  
19 people on the demo to see if they may have  
20 worked at another firm that might have been a  
21 client of ours in the past. Kind of did  
22 homework on the demos and would do homework on,  
23 you know, prospects, important prospects I'd be  
24 calling that day as well.

25 Q. And in terms of communications with

1 R. LOMBARDO

2 prospects and communications with clients, how  
3 did those transpire during the workday?

4 A. Either through email or telephone.

5 Q. And I think we covered this. But  
6 most of your calls when you were in the office  
7 were on your office phone, right?

8 A. Yes, the vast majority.

9 Q. Okay. So on the days when you came  
10 into the office, did you typically do any work  
11 before you actually arrived at the office?

12 A. No, unless an email came in or phone  
13 call came in, but that was rare for that early  
14 in the morning.

15 Q. Okay. And same question for the  
16 evenings. After you --

17 A. Yeah.

18 Q. Sorry. After you left the  
19 parking -- wait. Are you talking to me or  
20 talking to him?

21 MS. COOPER: No, I was talking to  
22 him, not you. Sorry.

23 Q. Let me ask it again so we have a  
24 clean record. When you left for the day, after  
25 you, let's say, exited the parking deck, did



1 R. LOMBARDO

2 you perform any work?

3 A. Yes.

4 Q. Typically what work were you  
5 performing after you exited the parking deck?

6 A. Answering client phone calls, client  
7 emails. Talking to potential colleagues.

8 Q. So when you're talking about client  
9 calls at this point, you're talking about on  
10 your cell phone, right?

11 A. Yes, I would have my work phone  
12 forwarded to my cell phone.

13 Q. Okay. Did you take phone calls in  
14 the car on your way home?

15 A. Yes, if they came in.

16 Q. And did you take phone calls at home  
17 after you arrived home?

18 A. Yes.

19 Q. How frequently did this happen?

20 A. Just phone calls?

21 Q. Starting with phone calls. I'm  
22 going to try to walk through everything, but  
23 I'm going to take it one category at a time.

24 A. I'd say several times a week.

25 Q. And on average, how long would you

1 R. LOMBARDO

2 say these phone calls were?

3 A. 15 minutes maybe with clients.

4 Q. And I'm assuming and hoping that you  
5 didn't answer client emails while you were in  
6 the car on the way home?

7 A. I did my best not to, unless there  
8 was a traffic jam.

9 Q. And how often did you send or  
10 receive client emails after you left the  
11 office?

12 A. That was more frequently.

13 Q. And let me correct that question.  
14 How often did you send or receive work-related  
15 emails after you left the office?

16 A. Any time they came in. I don't know  
17 the exact number.

18 Q. Can you estimate?

19 A. No.

20 Q. All of those emails would have  
21 either been sent from or received into your  
22 work email account, though, right?

23 A. Yes, sir.

24 Q. Other than phone calls and emails,  
25 did you perform any other Chmura work after you

1 R. LOMBARDO

2 left the office?

3 A. If I needed a contract or things of  
4 that nature, yes. It really depended on the  
5 task that was requested of me by phone call or  
6 email.

7 Q. And you said one potential task was  
8 that a client needed a contract?

9 A. Yeah, that could be one of them.

10 Q. Can you identify any others?

11 A. If they needed a sole-source letter  
12 is another one. If they just needed some  
13 documents of some kind.

14 Q. So these tasks would generally be in  
15 response to a request that you got from a  
16 client?

17 A. Correct.

18 Q. And did you always work on them the  
19 same night? Or if they weren't urgent, would  
20 you wait until the next day sometimes?

21 A. Yeah, I didn't answer every single  
22 email that night.

23 Q. You evaluated whether you needed to  
24 get back to the client right away and decided  
25 when to respond; is that fair to say?

1 R. LOMBARDO

2 A. It depended what the request was,  
3 yes.

4 Q. Okay. So you mentioned a couple  
5 different examples of types of requests that  
6 you would get from a client, sole-source  
7 letter. I think you said they might need a  
8 contract. In terms of responding to those  
9 requests, would it have usually required you to  
10 work on the computer?

11 A. Yes, if it was needing to put a  
12 contract together or something of that nature,  
13 if it was just a question of some kind, I would  
14 be able to respond through email on my phone or  
15 a phone call.

16 Q. All right. And then if it did  
17 require work on a computer, what computer would  
18 you use?

19 A. The Chmura laptop.

20 Q. And did you have to go through the  
21 same process of logging into that that you  
22 described for your desktop?

23 A. Yes.

24 Q. And any emails that you would have  
25 sent or received from the laptop would be in

1 R. LOMBARDO

2 your work email account, correct?

3 A. Yes.

4 Q. In terms of the work that you  
5 performed after you left the office, Mr.  
6 Lombardo, how long would you estimate you  
7 performed work on any given night?

8 A. Yeah, I really don't know. I  
9 wouldn't be able to estimate that.

10 Q. It varied?

11 A. Yes.

12 Q. Can you provide any kind of range?

13 A. Not really.

14 Q. Were there nights when you didn't  
15 work at home?

16 A. I'm sure where there were some  
17 nights where I did not have anything come in.

18 Q. I mean, can you estimate the number  
19 of those?

20 A. No.

21 Q. Do you have a sense of what the  
22 latest in any given evening that you would have  
23 worked, latest time?

24 A. Yeah, it could be -- it could be  
25 late. I had Washington and California, so it

1 R. LOMBARDO

2 just depended what times emails came in or  
3 phone calls came in from them.

4 Q. So would there be some nights when  
5 you would get home, not do work for some period  
6 of time, and then you'd get a client request  
7 later in the evening that you would respond to?

8 A. It's a potential.

9 Q. Can you estimate how often that  
10 happened?

11 A. I can't.

12 Q. Okay. Did you typically eat dinner  
13 with your family when you got home? Was that  
14 part of your routine?

15 A. It would be. My wife actually cried  
16 in multiple restaurants because I wouldn't put  
17 my phone down. She was not a fan.

18 Q. And did you eat at home most of the  
19 time in terms of dinner, or did you eat out?

20 A. No, I would eat out a lot.

21 Q. How often?

22 A. I don't know.

23 Q. In terms of the work that you may  
24 have done when you were having dinner out, that  
25 would have only been a phone call or an email;

1 R. LOMBARDO

2 is that correct?

3 A. Yes.

4 Q. You're not sitting at a restaurant  
5 working on your laptop most of the time, right?

6 A. No.

7 Q. When you were in the office, did you  
8 take lunch?

9 A. Very rarely.

10 Q. So did you actually pack a lunch, or  
11 did you just not eat?

12 A. I generally didn't eat.

13 Q. How often in a given week would you  
14 eat lunch?

15 A. Less than once.

16 Q. How about in a given month?

17 A. Handful, maybe. Two, three. It  
18 would be hard to estimate.

19 Q. Did you ever run errands during the  
20 day out of the office?

21 A. Rarely. Sometimes I'd have to take  
22 stuff to FedEx.

23 Q. Did you belong to a gym or anything  
24 like that that you went to regularly?

25 A. Obviously this is in person still.

1 R. LOMBARDO

2 But no.

3 Q. I can empathize.

4 Let me turn your attention, I think  
5 you said the latter part -- actually, I'm not  
6 going to try to remember. I want to turn your  
7 attention to the period of time when you  
8 started working from home 2 days a week. And  
9 remind me again when that started.

10 A. Maybe March of this year.

11 Q. You mean 2019 or ...

12 A. Yeah.

13 Q. It would have to be.

14 So when you worked from home during  
15 this period, just describe for me your usual  
16 routine. When did you start working, what did  
17 you do, when did you stop work?

18 A. I think it varied more at home than  
19 it did in the office. You know, could be as  
20 early as 7:00. You know, sometimes it might be  
21 7:30, 8:00 o'clock. It really depended on the  
22 day.

23 Q. And did you work consistently from a  
24 set time and stop working at a set time on  
25 Chmura matters? Do you understand that



1 R. LOMBARDO

2 question?

3 A. I do not.

4 Q. Yeah, I don't either.

5 Did you work all day straight  
6 through the day when you were working at home,  
7 or did you stop and do other things that  
8 weren't related to Chmura?

9 A. I'm sure there may have been times  
10 when I stopped and did other things.

11 Q. And can you give me a couple of  
12 examples of that?

13 A. Lifting laundry.

14 Q. Can you estimate for me how much  
15 time during your work-at-home days you spent  
16 performing non-Chmura tasks?

17 A. No, I can't. I'm not sure.

18 Q. Did you take breaks and eat lunch  
19 when you were working at home?

20 A. I'm not a big lunch eater. I'm sure  
21 I occasionally had some food here and there,  
22 but ... I didn't have a standard hour lunch  
23 that I would take every day.

24 Q. Would you say, Mr. Lombardo, that  
25 you had a standard schedule when you worked at

1 R. LOMBARDO

2 home? Or did your start and stop times vary  
3 there as well?

4 MS. COOPER: Objection as to form.

5 Go ahead.

6 A. They would vary. I didn't think of  
7 it as punching in and punching out of a clock  
8 at 5:00 o'clock as I'm done.

9 Q. When you worked at home, were other  
10 family members with you? Or, I'm sorry, were  
11 other family members also there?

12 A. Occasionally my wife would work from  
13 home, but not very often.

14 Q. Do you have children?

15 A. We do not.

16 Q. Were you eligible for vacation at  
17 Chmura?

18 A. Yes.

19 Q. How much did you get?

20 A. I believe 3 weeks the last year I  
21 was there. I'm not sure when it changed from  
22 2 to 3.

23 Q. And did you take the vacation that  
24 you were eligible for?

25 A. No, I never used all of it.

1 R. LOMBARDO

2 Q. You were there for about 4 years  
3 total?

4 A. Yes.

5 Q. So in your --

6 A. 4 and a half.

7 Q. Fair enough.

8 A. Closer to 5.

9 Q. And I'm just trying to get an  
10 estimate, if you recall, how many weeks of  
11 vacation approximately did you use during each  
12 of those 4 years. And I recognize it may be an  
13 estimate.

14 A. I'm not sure. I think when I left,  
15 I think I still had over 3 weeks available to  
16 me, so I may have used 2 or less vacation weeks  
17 a year.

18 Q. And you had to designate your time  
19 out of the office or your time off as vacation  
20 when you took it, right?

21 A. Yes.

22 Q. You had to tell somebody you were  
23 going on vacation?

24 A. Yes.

25 Q. Did you work on vacation?

1 R. LOMBARDO

2 A. Yes.

3 Q. How often?

4 A. Often.

5 Q. And on an average vacation day, how  
6 many hours would you estimate you performed  
7 work for Chmura?

8 A. I'm not sure. It varies.

9 Q. Can you give me a range?

10 A. I really wouldn't know. It would be  
11 anywhere from -- go ahead.

12 Q. No, you go ahead. I'm sorry.

13 A. It could be anywhere from 1 to  
14 6 hours.

15 Q. Were there vacation days where you  
16 performed no work?

17 A. I'm not sure.

18 Q. Did you take your laptop on  
19 vacation?

20 A. Yes.

21 Q. So you would have -- if you were  
22 performing work, you would have logged into  
23 that laptop while you were on vacation?

24 A. If it required a computer. But if  
25 not, a lot of them would be responding to

1 R. LOMBARDO

2 emails and phone calls.

3 Q. And so, again, that phone would be  
4 your cell phone?

5 A. Yes.

6 Q. And the emails would be your Chmura  
7 email account?

8 A. Yes.

9 Q. Did you work weekends?

10 A. I rarely work weekends.

11 Q. Did you say rarely? I'm sorry, I  
12 was looking down.

13 A. Yeah, I rarely worked weekends.

14 Q. Did you work over holidays?

15 A. If things came in, yes.

16 Q. How frequently did that happen?

17 A. I'm not sure.

18 Q. Would you characterize it as  
19 happening regularly or every once in a while?

20 A. I would say every once in a while on  
21 holidays. I wasn't getting a lot of emails on  
22 Christmas or, you know, Thanksgiving.

23 Q. What was your typical schedule when  
24 you attended conferences for Chmura?

25 A. They would start pretty early in the

1 R. LOMBARDO

2 morning. A lot of times around 7:00 for a  
3 breakfast. Obviously this would vary until --  
4 the booth would be open sometimes until 5:00,  
5 and there might be a reception afterwards.

6 Q. And when you say it would vary, did  
7 it vary from day-to-day at a given conference  
8 or from one conference to the next or both?

9 A. Both.

10 Q. Did you -- obviously you had to  
11 travel to these conferences, right?

12 A. Yes.

13 Q. Did you fly or drive usually?

14 A. Usually would fly, but I have driven  
15 to a couple.

16 Q. And when you fly, do you usually fly  
17 during the workday? Or did you fly at night?

18 A. I don't recall.

19 Q. I'm just talking about generally.  
20 Do you usually fly during business hours, or do  
21 you work and then get on a plane?

22 A. I typically would be -- like taking  
23 the first flight out, so I was always trying to  
24 get a 6:00 a.m. flight. I always like taking  
25 the first flight out in the morning. Keeps you

1 R. LOMBARDO

2 from having delays usually.

3 Q. And we talked about this. I don't  
4 want to duplicate. But in terms of your  
5 physical tasks that you performed at a  
6 conference or an event, you said you set up and  
7 break down the booth. And then what else were  
8 you physically doing other than meeting with  
9 clients at the booth or prospective clients at  
10 the booth?

11 A. That would really be it. You know,  
12 other than client interaction and setting up  
13 the booth and tearing down the booth, that's  
14 pretty much the majority is trying to interact  
15 with clients and prospects, either at the  
16 booth, at the lunches, at the receptions.

17 Q. And were there any gaps during the  
18 workday at the conferences where you took a  
19 break or did something non-work related?

20 A. Not that I could recall.

21 Q. I think you told me what time you  
22 usually started working at conferences. What  
23 time did it usually wrap up?

24 A. It really depended on -- each  
25 conference is different, so it's really hard to

1 R. LOMBARDO

2 put a time on it. Sometimes they could go as  
3 late as 7:00 o'clock for the booth. It all  
4 depends on what the exhibit hours were for each  
5 conference.

6 Q. Did Chmura provide a rest day for  
7 employees who attended conferences?

8 A. Yes.

9 Q. How did that work?

10 A. If you were traveling over the  
11 weekend, you would get one rest day.

12 Q. And did you take those?

13 A. I have. But you only got one even  
14 if it was for 2 days. So even if you left on a  
15 Saturday and it went through Sunday, it still  
16 was one day. So it wasn't comped for each  
17 individual day.

18 Q. Were the conferences during the week  
19 or on weekends or both?

20 A. Both. A lot of times they would  
21 start potentially on a Sunday.

22 Q. Mr. Lombardo, have you looked to see  
23 if you have your invoices or cell phone records  
24 from your carrier, your provider?

25 A. No.



1 R. LOMBARDO

2 Q. Since you filed the counterclaim in  
3 this case, have you taken any steps to preserve  
4 your cell phone records or your cell phone  
5 contents?

6 A. Yes.

7 Q. What have you done?

8 A. Nothing.

9 Q. So what steps have you taken to  
10 preserve the data on your cell phone? Let's  
11 break it down.

12 A. Making sure I did not delete  
13 anything.

14 Q. Have you continued to use your cell  
15 phone?

16 A. Yes.

17 Q. Is that the same cell phone that  
18 you've had throughout -- that you had  
19 throughout your employment with Chmura?

20 A. No.

21 Q. When did you get the one that you  
22 currently have?

23 A. I'm not sure.

24 Q. Can you estimate for me?

25 A. I really don't know.

1 R. LOMBARDO

2 Q. I mean, did you get it last month?  
3 Did you get it a couple years ago? Can you  
4 provide me with any information about how long  
5 you've had your current cell phone?

6 A. Maybe a year. I don't know. I  
7 don't know when I got a new one.

8 Q. Do you get the bills for your cell  
9 phone usage?

10 A. I'm not sure. It's on auto pay and  
11 I was under -- a friend of mine, it was under  
12 his account, family plan.

13 Q. Who's the provider?

14 A. Verizon.

15 Q. When did you first believe that you  
16 were entitled to overtime?

17 A. 2017.

18 Q. What caused you to form that belief?

19 MS. COOPER: I'm going to object to  
20 the extent it gets into any attorney-client  
21 privileged conversation.

22 MR. SATTERWHITE: Sure.

23 Q. Can you answer without revealing  
24 attorney-client privileged information?

25 A. No.

1 R. LOMBARDO

2 Q. Did you discuss your entitlement to  
3 overtime with anyone other than counsel in  
4 2017?

5 A. No.

6 Q. To the extent you discussed any such  
7 issues with counsel, did you ever do so when a  
8 third party was present?

9 A. No.

10 Q. Did you formally retain counsel for  
11 any reason in 2017?

12 MS. COOPER: I'm going to object to  
13 the extent we get to attorney-client  
14 privileged information.

15 MR. SATTERWHITE: I don't believe  
16 that question qualifies. I haven't asked  
17 for any communications. Are you  
18 instructing him not to answer?

19 MS. COOPER: No, I was not  
20 instructing him that.

21 A. What was the question?

22 Q. Did you retain counsel in 2017 for  
23 any reason?

24 A. Yes.

25 Q. When?

1 R. LOMBARDO

2 A. I don't know the exact date.

3 Q. Did you express to anyone else your  
4 belief that you were entitled to overtime in  
5 2017?

6 A. Yes.

7 Q. I'm not asking for any  
8 communications with counsel. I'm sorry. I  
9 should have qualified that. Who did you  
10 express it to?

11 A. Austin Steele.

12 Q. What did you tell him?

13 A. That I -- that we were due overtime.

14 Q. And what did he say?

15 A. I don't remember the conversation.

16 Q. Did he ask you why?

17 A. I don't recall.

18 Q. Did you tell Mr. Steele anything  
19 that your counsel may have told you about your  
20 entitlement to overtime?

21 A. No, not that I recall.

22 Q. Was Mr. Steele in any supervisory  
23 role over you at that time?

24 A. No.

25 Q. He was another account manager?

1 R. LOMBARDO

2 A. Yes.

3 Q. Did you complain to anyone at Chmura  
4 about the fact that you thought you were  
5 entitled to overtime? And I'm not limiting  
6 that to 2017.

7 A. Yes.

8 Q. How many times?

9 A. Twice, at least twice.

10 Q. To whom did you complain on each of  
11 those occasions?

12 A. Eli Auerbach.

13 Q. Have you complained to anyone in  
14 management at Chmura other than Mr. Auerbach  
15 about overtime or your entitlement to overtime?

16 A. No.

17 Q. When was the first time you  
18 complained to Mr. Auerbach about overtime?

19 A. I believe it was sometime in August.

20 Q. Of 2019?

21 A. I believe so. I'm not sure on the  
22 exact date.

23 Q. I'm just asking about the year. I'm  
24 trying to narrow it down.

25 A. Yes, 2019.

1 R. LOMBARDO

2 Q. When was the second time?

3 A. My last day of employment. My last  
4 day in the office.

5 Q. October 17th?

6 A. Yeah, sounds about right, give or  
7 take a day.

8 Q. Let's start with the August of 2019  
9 conversation. Where did that take place?

10 A. In his office.

11 Q. Was the complaint verbal or written?

12 A. Verbal.

13 Q. What time of day was it?

14 A. I don't recall.

15 Q. Was anybody else in the room?

16 A. No.

17 Q. What exactly did you say?

18 A. I don't remember the exact words.

19 Q. Tell me what you do remember.

20 A. Just letting you know that I am due  
21 overtime.

22 Q. So you walked in Mr. Auerbach's  
23 office and said, "Eli, I'm due overtime"; is  
24 that correct?

25 MS. COOPER: Objection. Go ahead

1 R. LOMBARDO

2 and answer, if you can.

3 A. I don't remember the exact wording.

4 Q. How did it come up?

5 A. I don't remember.

6 Q. What did he say?

7 A. I don't remember. I don't think  
8 he -- we didn't have a long discussion about  
9 it. I don't remember.

10 Q. What else did you say other than  
11 "I'm due overtime"?

12 A. I don't remember.

13 Q. What caused you to raise this in  
14 August of 2019 if you formed the belief that  
15 you were due overtime 2 years earlier?

16 A. I don't know what made me do it that  
17 day.

18 Q. What else did you and Mr. Auerbach  
19 talk about in August 2019 when you raised the  
20 overtime issue with him?

21 A. I'm not sure what else took place in  
22 that conversation. I had a lot of  
23 conversations with him. I don't remember.

24 Q. A lot of conversations generally or  
25 a lot of conversations about overtime?

1 R. LOMBARDO

2 A. Generally.

3 Q. And what is it that makes this  
4 conversation in August stick out in your mind  
5 as being the times that you complained about  
6 overtime?

7 A. I'm not sure. I just remember it  
8 being the first time I brought it up.

9 Q. Was there anything different about  
10 this conversation than the other conversations  
11 you said you had with them that caused you to  
12 raise the issue?

13 MS. COOPER: Objection. Go ahead  
14 and answer, if you can.

15 A. No, not that I can remember.

16 Q. Did you ask Eli to do anything about  
17 your concerns that you were entitled to  
18 overtime?

19 A. No, I don't believe I did.

20 Q. Did you tell him why you thought you  
21 were entitled to overtime?

22 A. I don't remember.

23 Q. So the only thing you remember about  
24 this conversation in August is that it was  
25 between you and Eli in your office and you said



1 R. LOMBARDO

2 you were due overtime; is that correct?

3 MS. COOPER: Objection. Objection

4 to the form. But go ahead.

5 A. Yes.

6 Q. Did you make any notes of the  
7 conversation?

8 A. I did not.

9 Q. Did you record the conversation?

10 A. I did not.

11 Q. How long did the conversation last?

12 A. I don't recall. I don't think very  
13 long. I don't recall.

14 Q. Was it a scheduled meeting or an  
15 impromptu meeting?

16 A. I don't recall if it was -- how the  
17 meeting came about.

18 Q. Anything else, Mr. Lombardo, that  
19 you can tell us about the August 2019 meeting?

20 A. Nope.

21 Q. Moving on to the October 17th, 2019,  
22 conversation, what did you tell Mr. Auerbach  
23 about overtime in that meeting?

24 A. That I was due overtime.

25 Q. What specific words did you use, if

1 R. LOMBARDO

2 you remember?

3 A. I don't remember the specifics.

4 Q. Did that take place in his office?

5 A. It took place near my desk.

6 Q. Anybody else around?

7 A. No. It was early in the morning.

8 Q. I assume it was verbal and not in  
9 writing?

10 A. Correct.

11 Q. And did you ever memorialize this  
12 complaint in writing with a followup email or  
13 anything like that?

14 A. No, not that I can remember.

15 Q. When you told Mr. Auerbach that you  
16 were entitled to overtime in October of last  
17 year, what was his response?

18 A. I don't remember his response.

19 Q. Why did you raise this with him at  
20 that time?

21 A. In October?

22 Q. Yes, sir.

23 A. That was in the midst of discussions  
24 about me leaving the organization.

25 Q. And what did your entitlement to

1 R. LOMBARDO

2 overtime have to do with that?

3 A. He mentioned a buyout and if there  
4 was a buyout, I would drop those claims.

5 Q. What claims? Claims for overtime?

6 A. Yes.

7 Q. Did you also discuss with  
8 Mr. Auerbach your claims regarding the  
9 commissions that you thought you were owed?

10 A. No.

11 Q. Did you talk to Mr. Auerbach about  
12 claims for breach of contract in any sense?

13 MS. COOPER: Objection as to form.

14 But go ahead and answer, if you can.

15 A. I believe we talk about the  
16 3 percent renewal.

17 Q. What do you remember about that?

18 A. I didn't know if that was legal or  
19 not.

20 Q. Did you ask him?

21 A. I don't remember if I asked him.

22 Q. After you formed the belief that you  
23 were entitled to overtime in 2017, did you  
24 start keeping any records of your overtime  
25 hours worked?

1 R. LOMBARDO

2 A. No, other than the parking receipts.

3 Q. Why not?

4 A. I thought the parking receipts  
5 demonstrated the hours that I worked.

6 Q. Did you keep any of your parking  
7 receipts before you formed this belief? Was  
8 that your regular practice?

9 A. No.

10 Q. So you started keeping parking  
11 receipts in 2017 because that's when you  
12 believed you were entitled to overtime?

13 A. Yes.

14 Q. Did you ever raise your concerns  
15 about overtime with Chmura's human resources  
16 department?

17 A. Not that I recall.

18 Q. Why not?

19 A. I wanted to keep my job. I thought  
20 that if I raised it, they would get rid of me.

21 Q. Are you aware of anybody else that  
22 raised concerns and were terminated?

23 A. For overtime? No.

24 Q. And you didn't raise these concerns  
25 with any of Chmura's leadership?

1 R. LOMBARDO

2 A. No. Just my direct supervisor.

3 Q. So let me back up a little bit in  
4 terms of your conversations with Mr. Auerbach.

5 At some point in October of last  
6 year, you and Mr. Auerbach started talking  
7 about the issue of territory restructuring; is  
8 that a fair statement?

9 A. Yes.

10 Q. When did that start?

11 A. I'm not sure when it started.

12 Q. What's the first conversation you  
13 remember with him about that issue?

14 A. I really don't remember the first  
15 conversation.

16 Q. And I'm not looking for a date. I  
17 just want to ask you about -- I mean, when was  
18 the first time you communicated with  
19 Mr. Auerbach about this territory restructuring  
20 issue?

21 A. Well, he communicated some things to  
22 me, I remember, on a car ride back from  
23 Columbus, at the Ohio Economic Development  
24 Conference that he was looking to go towards  
25 territories instead of verticals, but I don't

1 R. LOMBARDO

2 know the date of when that was.

3 Q. Maybe I'm using the wrong term.

4 There came a time in the fall of last year when  
5 you became concerned that your commissions  
6 would be adversely affected by some structural  
7 changes at the company; yes?

8 A. Yes.

9 Q. When did you first hear about those  
10 issues that led to your concerns?

11 A. I want to say the end of  
12 September-ish actually.

13 Q. Where did you hear that?

14 A. Well, there was always some  
15 discussions going on from Eli, but I heard from  
16 a colleague that Eli had separate meetings with  
17 everybody else stating that this was going to  
18 be the new plan of action. So one of those  
19 employees pulled me to the side and told me,  
20 hey, this is going -- this is the new plan, you  
21 know. You're not even supposed to know about  
22 it at this point.

23 Q. Who was that that told you?

24 A. Sarah.

25 Q. What's her last name?

1 R. LOMBARDO

2 A. Manfroni.

3 Q. What was her position at the  
4 company?

5 A. An account executive.

6 Q. Do you know if she's still there?

7 A. I believe so, but I don't know.

8 Q. So tell me again what it is that she  
9 told you was the proposed change and how did  
10 you react to it.

11 MS. COOPER: Objection to the form.  
12 But go ahead and answer.

13 A. That they were going to take all the  
14 accounts away -- well, re-distribute all the  
15 accounts equally to every account rep and go to  
16 territories. So each of the new account reps  
17 would get a portion of the current book of  
18 business I helped build.

19 Q. So that would adversely affect you?

20 A. Yes.

21 Q. So what was your reaction to this  
22 news?

23 A. I was not very happy. To be honest,  
24 I was really hurt by it.

25 Q. And did you convey that to Eli,

1 R. LOMBARDO

2 Mr. Auerbach?

3 A. No, not at that point.

4 Q. At some later point?

5 A. Yes.

6 Q. When?

7 A. I don't know the exact date.

8 Q. So Ms. Manfroni --

9 A. Uh-huh.

10 Q. -- told you about this situation.

11 How long before you talked to Mr. Auerbach  
12 about it?

13 A. I think it may have been a couple  
14 days.

15 Q. Did you approach him?

16 A. I did.

17 Q. Tell me about that conversation.

18 A. They had a meeting to talk about the  
19 new sales areas or the new territories, and  
20 they scheduled that while I was on a demo. So  
21 the rest of the sales team were talking about  
22 what's happening moving forward with the new  
23 territories, new alignment, discussing what  
24 territories they wanted, while I was on a demo.  
25 So I don't know if it was the next day or maybe



1 R. LOMBARDO

2 later that day, I approached him and asked him  
3 what's going on.

4 Q. What did he say?

5 A. Yeah, this is the direction that  
6 management wanted to go.

7 Q. So he told you at that time that  
8 that was the direction that management wanted  
9 to go?

10 A. Correct.

11 Q. Did he indicate that leadership had  
12 approved of a specific plan or that this was  
13 something that was being contemplated? Or did  
14 he tell you?

15 MS. COOPER: Objection as to form.

16 A. They were still ironing out some  
17 issues, but things were going to be changing  
18 and this was the route that it was going to go.  
19 I was going to lose accounts. I would not be  
20 compensated for those, and he said yes, this is  
21 going to -- you're the only one this is going  
22 to affect negatively.

23 Q. Did you say anything about whether  
24 leadership wanted to get rid of you in that  
25 conversation?

1 R. LOMBARDO

2 A. Yes, yes. I said this is -- they  
3 obviously must be wanting to push me out  
4 because I don't understand why they would want  
5 to treat me like this. I've worked my butt off  
6 for them in at this point 4 and a half years,  
7 and at this point, they're going to put me on  
8 par with somebody that just started 3 months  
9 ago. I had 10 years of sales experience. I  
10 worked really hard there to get them to where  
11 they were at. And now pretty much three people  
12 off the street were going to be at the same  
13 income and account levels as I was.

14 Q. What did Mr. Auerbach say?

15 A. He brought up a potential buyout.

16 Q. How did he characterize it?

17 A. I don't know the exact words that he  
18 used.

19 Q. Did you and he discuss numbers in  
20 that meeting?

21 A. Yes.

22 Q. What did you discuss?

23 A. I told him 100,000.

24 Q. Was that the first number you told  
25 him?

1 R. LOMBARDO

2 A. No. I think I said 50,000  
3 originally, then came back later on with  
4 100,000.

5 Q. And what were you proposing to do in  
6 return for the payment? Did you offer  
7 anything?

8 A. Yeah, so I would have stayed on with  
9 the company through the end of the year. Hand  
10 off the accounts. I would be able to close the  
11 accounts I had in my pipeline because I had  
12 many accounts that were closing within the next  
13 month or two. And as the renewals come up,  
14 hand off the accounts to the new reps and then  
15 I would leave on December 31st or January 1st,  
16 whatever date.

17 Q. How did you come up with 100,000?

18 A. Randomly out of the top of my head.  
19 I was trying to figure out, I would need to  
20 move to another industry and it would take me  
21 some time to do that. But I didn't really put  
22 a lot of thought into it. It was that same  
23 day. It's just, I don't know, a number I came  
24 up with that --

25 Q. I'm sorry. Finish, please.

1 R. LOMBARDO

2 A. I said it's just a number I felt  
3 comfortable with.

4 Q. Where did you and Mr. Auerbach leave  
5 things?

6 A. He said he's going to speak with  
7 management about it.

8 Q. And then am I correct that you then  
9 left to attend a couple of conferences?

10 A. Correct.

11 Q. What conferences did you go to?

12 A. The Texas Economic Development  
13 Conference and the IEDC Conference,  
14 International Economic Development Conference.

15 Q. Was that, the second one in  
16 Indianapolis?

17 A. Yes, it was.

18 Q. And at those, both of those  
19 conferences, I assume you did what you  
20 described as your normal duties at a  
21 conference: You met with prospects, met with  
22 clients, worked the booth?

23 A. Yes, sir.

24 Q. When you talked to a client or a  
25 prospect at the conference, did you make notes

1 R. LOMBARDO

2 of those conversations?

3 A. Yes.

4 Q. How did you do that physically? Did  
5 you -- well, we'll leave it there.

6 A. I would jot notes on the back of  
7 business cards if it was busy. Then when there  
8 was available time, I would type up the note.

9 Q. And were there other Chmura  
10 employees at those conferences?

11 A. Not at the Texas Economic  
12 Development Conference, but there were several  
13 at the IEDC conference.

14 Q. Other account managers?

15 A. Yes.

16 Q. And I assume they also talked to  
17 prospective and actual clients while they were?

18 MS. COOPER: Objection. You can  
19 answer, if you know.

20 A. Yeah, I'm sure they spoke with a  
21 few.

22 Q. Did they work the booth with you?

23 A. Partially.

24 Q. Did you see them talking to clients  
25 and prospects while they were at the booth with

1 R. LOMBARDO

2 you?

3 A. Yes.

4 Q. Did you have any role in typing up  
5 their notes from the II -- IEDC conference?

6 A. I don't believe so. I don't recall.

7 Q. You typed the notes for your own  
8 conversations on your laptop, correct?

9 A. Yes.

10 Q. At any point did you let anyone else  
11 use your laptop while you were at the  
12 conference?

13 A. Yes.

14 Q. Who?

15 A. I'm not sure. I believe that Logan  
16 may have used it. Leslie may have used it.  
17 Eli may have used it. I'm not sure exactly.

18 Q. And where did you save your notes on  
19 the laptop?

20 A. I don't know. I believe it was a  
21 Word document, but I'm not positive.

22 Q. Did you save it locally on the  
23 laptop?

24 A. I don't know. I just hit Save As in  
25 a Word document. I don't know where that saves

1 R. LOMBARDO

2 to.

3 Q. Did you email a copy of your notes  
4 back to anyone at Chmura?

5 A. No, I don't believe so.

6 Q. So as far as you know, the only copy  
7 of your notes was on your laptop?

8 A. I'm not sure.

9 Q. You didn't make any copies --

10 A. Make any copies?

11 Q. -- of your notes.

12 A. No.

13 Q. And you're not aware of anybody else  
14 making copies of your notes?

15 A. I'm not sure. I don't believe so.

16 Q. So, again, as far as you know, the  
17 only copy of your notes was what you saved on  
18 your laptop, correct?

19 A. Yes.

20 (Plaintiff's Exhibit U marked for  
21 identification.)

22 Q. Showing you what's been marked as  
23 Exhibit U, has that come through for you guys  
24 yet?

25 A. It usually takes another 15 seconds

1 R. LOMBARDO

2 for it.

3 Q. There it is.

4 A. There we go.

5 Q. Take a look at that and tell me if  
6 you recognize all or part of it.

7 A. Yep.

8 Q. What is Exhibit U?

9 A. It's notes from a conference.

10 Q. Do you know which conference --  
11 sorry?

12 A. Multiple conferences, it looks like.

13 Q. From the notes, can you tell which  
14 conferences these cover?

15 A. Yes.

16 Q. Which ones?

17 A. I'll start at the beginning. The  
18 IEDC Annual Conference.

19 Q. And is that the one you attended in  
20 Indianapolis that you were just telling me  
21 about?

22 A. Yes.

23 The IEDC Leadership Summit. Another  
24 one from the IEDC Leadership Summit.

25 Q. Was that another one that was part



1 R. LOMBARDO

2 of the IEDC Conference or a separate one?

3 A. That's a separate one.

4 Q. Do you know when that took place?

5 A. I believe January. I think January,  
6 if it was the one in Fort Lauderdale. I'm not  
7 sure.

8 Q. Are these your notes?

9 A. Not all of them, no.

10 Q. Can you tell me which ones are yours  
11 and which ones are not?

12 A. Do you want me to go by page?

13 Q. Whatever's easiest for you, but that  
14 works for me.

15 A. Page 1 is mine. Page 1 through --  
16 page 1 through 8 is mine.

17 Q. Any others?

18 A. Make that 1 through 14 is mine. 15,  
19 16, and 17 are not mine. 18 is not mine. 19  
20 is not mine. 20 and 21 appear to be mine. And  
21 then 22 through 25 are mine.

22 Q. And what was your normal procedure,  
23 Mr. Lombardo, when you go to a conference like  
24 this, talk to clients, take notes, and then how  
25 did you get that information back to Chmura?

1 R. LOMBARDO

2 A. Send it in an email.

3 Q. To whom?

4 A. The sales team and leadership.

5 Q. And did you ever send any of the  
6 notes in Exhibit U to anyone else at Chmura via  
7 email?

8 A. There's a potential Kyle West may  
9 have been added to it. I'm not sure if I added  
10 John or Greg Chmura in 2012. They may have  
11 been added.

12 Q. So you emailed these notes to  
13 someone at Chmura after the IEDC Conference?

14 A. No, these are from multiple  
15 conferences. So some of them, I believe, were  
16 emailed. So all these notes were from multiple  
17 different conferences.

18 Q. Fair enough.

19 A. The IEDC --

20 Q. Yeah, it was a sloppy question. I'm  
21 sorry.

22 So did you ever email the IEDC notes  
23 from the October IEDC conference to anyone at  
24 Chmura?

25 A. No.

1 R. LOMBARDO

2 Q. Those notes were on your laptop?

3 A. Yes.

4 Q. So switching back to your  
5 discussions with Mr. Auerbach, when was the  
6 next time you had a conversation with him about  
7 this notion of a buyout or the sales territory  
8 restructuring?

9 MS. COOPER: Objection as to form.

10 Go ahead.

11 A. I think it was the day -- the first  
12 full day back in the office after the  
13 conference.

14 Q. And where did that discussion take  
15 place?

16 A. At my desk.

17 Q. Did -- I take it he approached you?

18 A. Yes.

19 Q. Was anybody else around?

20 A. No, it was early in the morning.

21 Q. What did he say?

22 A. That he didn't think leadership  
23 wanted to pay for a buyout.

24 Q. And how did you react to that?

25 A. Not happy.

1 R. LOMBARDO

2 Q. What did you say?

3 A. I don't remember everything that  
4 I've said. I'm sure I said a lot. The  
5 conversation was probably 30 minutes.

6 Q. I'm sorry. How long?

7 A. Maybe 30 minutes. Overall.

8 Q. Did you tell him that you had met  
9 with a competitor in Indianapolis?

10 A. Yes.

11 Q. Did you talk to him about moving  
12 your book of business to a competitor?

13 A. I wouldn't say me moving my book of  
14 business.

15 Q. Did you tell him that if the company  
16 did not buy you out, you would take your book  
17 of business to a competitor, or words to that  
18 effect?

19 MS. COOPER: Objection to the form.

20 Q. You can answer.

21 A. No, no.

22 Q. Did you say anything about moving  
23 your clients or telling your clients to go to a  
24 competitor?

25 MS. COOPER: Objection to the form.

1 R. LOMBARDO

2 Go ahead.

3 A. Not that I -- not that I recall.

4 Q. What do you recall about the  
5 conversation?

6 A. In that form?

7 Q. In any form.

8 A. He asked what I would do. I said I  
9 would look at other people in economic  
10 development because I have so many contacts in  
11 there, and that's where I've been working the  
12 last 5 years, that somebody would want to hire  
13 me because I have so many contacts.

14 Q. Did you tell him that, quote, either  
15 Chmura is going to pay me for those  
16 relationships or someone else will?

17 A. I'm not sure if that was a quote.

18 Q. I'm asking you if that's what you  
19 said?

20 A. I don't recall if that's the exact  
21 language that I used.

22 Q. Did you tell him that you had an  
23 offer from a competitor?

24 A. No.

25 Q. Did you talk any more about payment

1 R. LOMBARDO

2 amounts during that conversation?

3 A. I don't recall there were payment  
4 amounts discussed there.

5 Q. What else do you remember about that  
6 conversation, Mr. Lombardo?

7 A. He asked me if I would go work for  
8 EMSI, and I said if it was the best offer.

9 Q. Anything else?

10 A. Just kind of voiced how upset and  
11 hurt that I was that this was happening. I  
12 didn't really ever want to leave Chmura. I was  
13 happy there. I liked the people I worked with.  
14 And I just didn't understand why they were  
15 doing this. I worked really hard for them for  
16 a long time, and this feels like they're just  
17 spitting in my face. I don't understand it.

18 Q. What did you mean when you told him  
19 that you would go to work for EMSI if they had  
20 the best offer?

21 A. I meant I would go work for EMSI if  
22 it was a reasonable offer of employment.

23 Q. How did that meeting end or  
24 conversation?

25 A. I'm not exactly sure how it ended.

1 R. LOMBARDO

2 From what I recall, we were the only two back  
3 there and he kind of would come out, talk to  
4 me, kind of go back to his office, come back  
5 out and talk to me. So I don't know exactly  
6 when it ended.

7 Q. Did you go home early that day?

8 A. I did.

9 Q. Did he tell you to?

10 A. He did.

11 Q. Did you have your laptop in the  
12 office when you had the meeting with  
13 Mr. Auerbach?

14 A. I don't recall. I may have.

15 Q. Did you take it home with you?

16 A. Yes. Yeah, I did have it in the  
17 office because I remember I logged into it in  
18 my kitchen.

19 Q. Why?

20 A. I had a demo that day. So at that  
21 point, I wasn't aware that I wasn't able to log  
22 in so I was going home to continue doing my  
23 work for the day. I had a lot of calls to  
24 make. I took a phone call on the way home from  
25 a current client, and then I had a demo I was

1 R. LOMBARDO

2 going to prepare for later that afternoon.

3 Q. You logged in at your kitchen at  
4 home, right?

5 A. I guess I should rephrase that. I  
6 tried to log in at home. Once I got home and  
7 tried to log in, I realized I didn't have  
8 access.

9 Q. Did you tell anybody about your  
10 conversation with Mr. Auerbach?

11 A. I don't recall who I spoke with.  
12 I'm sure I told my wife.

13 Q. Did you discuss the issue with any  
14 other Chmura employees?

15 A. I don't -- I don't recall. I'm  
16 sure, sure I did.

17 Q. Did you tell anybody that you had  
18 already gotten a job offer from EMSI?

19 A. I think I did.

20 Q. Who?

21 A. I don't -- I don't know if it was --  
22 I think maybe Allison.

23 Q. What's her last name?

24 A. Magee.

25 Q. Had you already received a job offer



1 R. LOMBARDO

2 from EMSI?

3 A. I did not.

4 Q. So that wasn't true?

5 A. Correct.

6 Q. Why did you tell her something that  
7 wasn't true?

8 A. I'm not sure.

9 Q. Did you -- and I apologize in  
10 advance for my language to everybody on the  
11 call, but did you tell anyone, quote: I can  
12 fuck Chmura at any point. I will just call all  
13 my clients and tell them what they did and they  
14 should look at EMSI?

15 A. No, I don't remember saying that.

16 Q. Did you tell anybody at Chmura that  
17 they would be collateral damage when you left  
18 and took your clients?

19 A. Not that I recall.

20 Q. When was the next time you spoke  
21 with Mr. Auerbach?

22 A. I communicated with him I don't know  
23 how many times exactly, but a few times. I  
24 think I left on a Thursday. I think a  
25 Thursday, and we communicated a bit on -- when

1 R. LOMBARDO

2 I left that Thursday and I think Friday.

3 Q. And in any of those communications,  
4 did Mr. Auerbach tell you that you needed to  
5 return your laptop?

6 A. He actually told me to keep -- he  
7 said we needed to exchange the laptop for the  
8 stuff at my desk, but not to do that until I  
9 signed the letter from the attorney.

10 Q. When did he -- I'm sorry. When did  
11 he tell you that?

12 A. It was the following week. I'm not  
13 sure of the exact date.

14 Q. Did you become aware at some point  
15 that Chmura wanted you to return the laptop?

16 A. Yes.

17 Q. When?

18 A. Correspondence with my attorney.

19 Q. And do you remember the approximate  
20 date of that correspondence?

21 A. I don't.

22 Q. When you --

23 A. Go ahead.

24 Q. No, go ahead if you need to finish  
25 your answer.

1 R. LOMBARDO

2 A. I would say sometime at the end of  
3 October, but I'm not sure of the exact date.

4 Q. So you knew by the end of October  
5 that Chmura wanted you to return the laptop?

6 A. No. I was told to hang on to it  
7 until I signed the letter.

8 Q. Now, we need to walk back through  
9 the last few questions. I misunderstood your  
10 answer.

11 When did you become aware that  
12 Chmura wanted you to return its property?

13 A. Eli told me that he wanted to  
14 exchange the computer for the stuff I have in  
15 the office but not to do that or we couldn't do  
16 that until I signed the letter that I believe  
17 you sent me.

18 Q. And at some later point, did you  
19 become aware that Chmura wanted the laptop  
20 returned immediately?

21 A. I don't recall the time frame.

22 Q. Again, I'm may be misunderstanding.  
23 I thought you said something about the letters  
24 from attorneys when I asked you the question  
25 previously. And if I got it wrong, I

1 R. LOMBARDO

2 apologize.

3 A. Yeah, I'm not sure if the letter was  
4 before Eli told me about holding on to it until  
5 I signed that letter.

6 Q. Did you have any other conversations  
7 with Mr. Auerbach about the laptop?

8 A. No.

9 Q. When did you give the laptop to your  
10 counsel?

11 A. I don't know the exact date.

12 Q. Which counsel did you give it to?

13 A. My current counsel.

14 Q. Do you remember the approximate  
15 date?

16 A. I don't.

17 (Plaintiff's Exhibit C marked for  
18 identification.)

19 Q. I have displayed what's been marked  
20 as Exhibit C because I skipped it earlier  
21 today. That's why it's letter C. Take a look  
22 when it comes up, and let me know when you've  
23 had a chance to review it.

24 A. I see it.

25 Q. Do you know what this is,

1 R. LOMBARDO

2 Mr. Lombardo?

3 A. Yes.

4 Q. It's an affidavit you submitted to  
5 the Court either -- late last year on or around  
6 December 15th, right?

7 A. Yes.

8 Q. Your signature is on the last page?

9 A. Yes, sir.

10 Q. And the affidavit was accurate when  
11 you signed it?

12 A. To the best of my knowledge, yes.

13 Q. And to the best of your knowledge,  
14 it's accurate now, right?

15 A. Yes.

16 Q. I really have just one quick  
17 question about this. It's on page 6,  
18 paragraph 30, which I'm displaying here. I  
19 don't know if you can see it.

20 A. Yeah.

21 Q. Second sentence of paragraph 30  
22 says: On October 21st, 2019, I told my  
23 attorney that I had the laptop and  
24 miscellaneous items and would give it back to  
25 Chmura whenever it wished.

1 R. LOMBARDO

2 Are you talking about your current  
3 counsel there or your prior counsel?

4 A. My prior counsel.

5 Q. You mentioned that when you went  
6 home after your meeting with Mr. Auerbach, you  
7 tried to log into your laptop in your kitchen,  
8 right?

9 A. Yes.

10 Q. And that was the same day that  
11 Mr. Auerbach sent you home?

12 A. Yes.

13 Q. Did you turn on or otherwise use the  
14 computer on the following day?

15 A. I'm not sure. I may have turned it  
16 on or used it. I'm not sure.

17 Q. Did you attach any storage devices,  
18 memory cards -- memory cards, thumb drives,  
19 external hard drives, anything like that to the  
20 laptop after Mr. Auerbach sent you home?

21 A. No, the only thing that would have  
22 been attached there is a wireless mouse.

23 Q. Did you copy any information from  
24 the laptop to any other destination?

25 A. No.

1 R. LOMBARDO

2 Q. Did you send anything from the  
3 laptop to any email account?

4 A. No.

5 Q. In any way, did you duplicate any of  
6 the information that was contained on that  
7 computer?

8 A. No.

9 Q. At the time Mr. Auerbach sent you  
10 home -- well, after he sent you home, you  
11 became aware that you were locked out of  
12 Chmura's systems, right?

13 A. Yes.

14 Q. Did you have any copies of your  
15 client list in your possession at that time?

16 A. I'm sorry?

17 Q. Did you have any copies of any  
18 client list of yours at that time?

19 A. Yes.

20 Q. Where?

21 A. There was some -- I had one in my  
22 email.

23 Q. Your work email?

24 A. Yeah. It may have been saved on the  
25 laptop. I'm not sure.

1 R. LOMBARDO

2 Q. The desktop computer or the desktop  
3 screen on the laptop?

4 A. Yeah, I'm sorry. On the laptop.  
5 I'm sorry. I'm not good with my computer  
6 terms.

7 Q. So you had a copy of your client  
8 list on the laptop?

9 A. Yeah, I believe they -- I believe  
10 so, yes.

11 Q. Let me show you and see if we're  
12 talking about the same thing.

13 A. After this, may I have a quick potty  
14 break?

15 Q. Actually, we can do it now. I'm  
16 still pulling up the document. I'll have it  
17 ready when everyone gets back. Want to take 5?

18 A. Yeah, that will be fine.

19 MR. SATTERWHITE: All right. Go off  
20 the record. Back in 5 minutes.

21 (A short break was taken.)

22 BY MR. SATTERWHITE:

23 Q. Before we went off the record,  
24 Mr. Lombardo, we were talking about your client  
25 list that was on your laptop.



1 R. LOMBARDO

2 A. Uh-huh.

3 Q. Do you remember what format that was  
4 in?

5 A. I believe it's Excel when you  
6 download it. It would just be a usage report.  
7 I didn't have my client list. It was just the  
8 usage report.

9 Q. I've got a pretty large exhibit  
10 that's processing. Has it showed up yet?

11 MS. COOPER: No.

12 MR. SATTERWHITE: It may take a  
13 little while.

14 MS. COOPER: Yours has popped up on  
15 the screen, but it hasn't popped up in the  
16 submitted documents yet.

17 Q. All right. Mr. Lombardo, I will  
18 just give you a little background on this.  
19 This was a spreadsheet. We converted it to a  
20 PDF in order to display it today.

21 A. Okay.

22 Q. I will gladly scroll through --

23 MR. SATTERWHITE: Actually,  
24 Christine, if you'd like, I think I have  
25 the ability to let you scroll through it

1 R. LOMBARDO

2 and maybe that will be a little quicker.

3 If you can change the pages. It's

4 150 pages long so ...

5 MS. COOPER: Let me see if I can  
6 make it bigger. See if you can manipulate  
7 from there, and then you can page through  
8 page by page.

9 (Plaintiff's Exhibit V marked for  
10 identification.)

11 Q. Do you recognize Exhibit V, as in  
12 Victor?

13 A. Yes.

14 Q. Is the client list that you were  
15 just talking about or, to be more precise, the  
16 client usage report?

17 A. Yes.

18 Q. And what does this show generally?

19 A. The users of JobsEQ and when they  
20 logged in and the time.

21 Q. So this is not limited to your  
22 clients, correct?

23 A. Correct.

24 Q. The original spreadsheet shows tabs  
25 for each one of the account managers?

1 R. LOMBARDO

2 A. Yes.

3 Q. So this is a list of all JobsEQ  
4 users?

5 MS. COOPER: Objection. There's no  
6 scope on that. We don't know when this is  
7 from.

8 Q. Is this a list of all JobsEQ users,  
9 yes or no?

10 A. Yes.

11 Q. Okay.

12 A. Most likely, according to, you know,  
13 the usage report.

14 Q. And this appears to show in bold  
15 letters the individual company name that  
16 licensed the product?

17 A. Yes.

18 Q. And then under each heading, it  
19 shows the first and last name of individuals at  
20 that company who are using the product?

21 A. Yes.

22 Q. Do you see that some of the fields  
23 are marked in red?

24 A. Yes.

25 Q. Do you know what those fields or

1 R. LOMBARDO

2 those cells represent?

3 A. It looks like people that never  
4 logged in.

5 Q. And then the column to the right of  
6 that is entitled Logins; so I assume that's the  
7 number of times each user has logged in, if you  
8 know?

9 A. Yes.

10 Q. And then the final column is Time  
11 Online, which I again am assuming it's pretty  
12 self-explanatory. It's the amount of time each  
13 user has spent online?

14 A. To my knowledge.

15 Q. Did you -- how did you get this  
16 report?

17 A. It was emailed to us on Fridays.

18 Q. And why was it on the desktop screen  
19 of your laptop?

20 A. A lot of times I would pull it up so  
21 that when I'm talking to a current client, I'm  
22 able to see, you know, when their usage was,  
23 who their main users are to make sure I'm  
24 reaching out to the appropriate people.

25 Q. Did you consider this document

1 R. LOMBARDO

2 confidential?

3 A. Yeah, I would consider this  
4 confidential.

5 Q. Why?

6 A. It has the users on it.

7 THE COURT REPORTER: I'm sorry,  
8 could you repeat the answer?

9 (Discussion off the record.)

10 A. It has the client list on it.

11 Q. Did you have any other copies of  
12 this client list in your possession as of the  
13 day that Mr. Auerbach sent you home?

14 A. No.

15 Q. Did you have client contact  
16 information in any format in your possession  
17 the day he sent you home?

18 A. This will on the laptop so, I mean,  
19 I would have it. I would also have some phone  
20 numbers in my cell phone if I was talking to  
21 them that day or if I had incoming calls from  
22 them.

23 Q. Were your clients saved as contacts  
24 in your cell phone?

25 A. No.

1 R. LOMBARDO

2 Q. What -- Chmura used Outlook for its  
3 email, right?

4 A. Yes.

5 Q. On your laptop when you opened  
6 Outlook, there's a tab for emails and a tab for  
7 calendar and a tab for contacts. Are you  
8 familiar with that?

9 A. Yes.

10 Q. When you clicked on the tab for  
11 contacts, did your client information appear  
12 either in whole or in part in Outlook?

13 A. I'm not sure. I never used Outlook  
14 for contacts. I always used Salesforce.

15 Q. Did any of the data from Salesforce  
16 sync up to your cell phone?

17 A. No. I had the Salesforce app, so I  
18 would have had to log in to Salesforce to use  
19 it.

20 Q. So, again, regardless of any format,  
21 did you have any other client list in your  
22 possession after Mr. Auerbach sent you home  
23 other than Exhibit C?

24 A. No.

25

1 R. LOMBARDO

2 (Plaintiff's Exhibit W marked for  
3 identification.)

4 Q. All right. Showing you Exhibit W,  
5 and it looks like that's been made available to  
6 you. Take a look at that and tell me when  
7 you've had a chance to look it over.

8 A. I'm familiar with this.

9 Q. What is it?

10 A. It's a communication with me and  
11 Josh Wright from EMSI.

12 Q. And that is Chmura's primary  
13 competitor, correct?

14 A. Correct.

15 Q. If we go to the second page, it  
16 looks like the first email is from you dated  
17 October 17th to Josh; is that correct?

18 A. Correct.

19 Q. You asked him if he had time for a  
20 quick chat today?

21 A. Correct.

22 Q. What did you want to chat about?

23 A. Essential opportunities.

24 Q. And this was the same day  
25 Mr. Auerbach sent you home?

1 R. LOMBARDO

2 A. Yes.

3 Q. 10:02 a.m. is when you sent the  
4 email?

5 A. Yes.

6 Q. Was that after he sent you home?

7 A. I don't remember.

8 Q. Was it after you had the  
9 conversation with him?

10 A. Yes.

11 Q. Did your conversation with  
12 Mr. Auerbach cause you to send this email in  
13 any way?

14 A. Yes.

15 Q. You say: I hope you had a safe trip  
16 back from Indianapolis. Had you met him in  
17 Indianapolis at the IEDC conference?

18 A. I saw him there. It's not where I  
19 met him.

20 Q. Did you talk with him at the  
21 conference?

22 A. Yes.

23 Q. For how long?

24 A. 5 minutes maybe.

25 Q. About a job opportunity?



1 R. LOMBARDO

2 A. No.

3 Q. Did that subject come up at the  
4 conference?

5 A. The job opportunity?

6 Q. I'll rephrase.

7 Did you and Josh talk about the  
8 possibility of employment at EMSI in any  
9 context at the IEDC conference?

10 A. Yes.

11 Q. What did you say and what did he  
12 say?

13 MS. COOPER: Objection as to form.  
14 Go ahead.

15 A. If I was ever to leave Chmura, if he  
16 would be open to a conversation.

17 Q. What did you say?

18 A. That's what I said.

19 Q. Oh, you initiated it. I  
20 misunderstood.

21 A. Correct.

22 Q. Did you seek him out at the  
23 conference?

24 A. No.

25 Q. You just bumped into him?

1 R. LOMBARDO

2 A. Yes. I see him at many conferences.

3 Q. And you asked him when you bumped  
4 into him at the conference if there would ever  
5 be an opportunity at EMSI if you left Chmura;  
6 is that correct?

7 A. Yes.

8 Q. What did he say?

9 A. His eyes just got real big and to  
10 reach out if it was to happen.

11 Q. Did you have --

12 A. And said he'd love to have a  
13 conversation.

14 Q. I'm sorry. Part of your answer got  
15 cut off because I was talking over you, and I  
16 apologize. Can you repeat your answer?

17 A. Yeah, he said he would love to have  
18 a conversation.

19 Q. Which of the two conferences were  
20 first, the IEDC or the Texas conference?

21 A. The Texas conference.

22 Q. Why did you ask Josh about the  
23 possibility of employment?

24 A. Because I was worried I was going to  
25 be pushed out from Chmura.

1 R. LOMBARDO

2 Q. Were you concerned about your  
3 noncompete agreement?

4 A. Yeah. When -- yeah.

5 Q. And you approached him anyway?

6 A. From my understanding, you're  
7 allowed to work for a competitor. You're just  
8 not allowed to do it in the same role.

9 Q. And other than from counsel, how did  
10 you obtain that understanding?

11 A. Well, Chmura's hired people from  
12 EMSI before and other people have left Chmura  
13 for EMSI, so they have traded employers  
14 before -- employees, I apologize.

15 Q. Did you and Josh have any other  
16 discussions at the conference other than what  
17 you've already described?

18 A. Talked about Chiefs. He's a big  
19 Kansas City Chiefs fan. And travel. Nothing  
20 other than that.

21 Q. So Exhibit W is a series of emails  
22 primarily trying to set up a phone call. Is  
23 that a fair characterization?

24 A. Yes.

25 Q. Did you ultimately get on the phone

1 R. LOMBARDO

2 with Josh after you sent Exhibit W?

3 A. Yes.

4 Q. When did that happen?

5 A. I'm not sure of the exact date. I'm  
6 sure it's in here, but I don't know the exact  
7 date.

8 Q. How long did the phone call with  
9 Josh last?

10 A. Under 10 minutes.

11 Q. What did you say on that call?

12 A. That it looks like I'm not going to  
13 be with Chmura in the near future and if  
14 there's any opportunities ...

15 Q. And what was his response?

16 A. He asked if I had a noncompete. I  
17 told him that we did, that I did. And he said  
18 at this point, you know, he was only in charge  
19 of the economic development and workforce  
20 piece, and that's primarily what I worked in so  
21 it won't be a match.

22 Q. Anything else you recall about your  
23 conversation with Josh?

24 A. No. It didn't last very long.

25 Q. And so you never got a job offer

1 R. LOMBARDO

2 from EMSI?

3 A. Correct.

4 (Plaintiff's Exhibit X marked for  
5 identification.)

6 Q. Showing you what's been marked as  
7 Exhibit X, Mr. Lombardo. It's probably going  
8 to take a few seconds to come up. After you've  
9 had a chance to look at it, just let me know.

10 A. Okay. It did not come through yet.

11 Q. Yeah, it's slow on my end as well.  
12 All right. It just finished for me, so it may  
13 be a few seconds for you. Did you get it?

14 MR. SATTERWHITE: Christine, did it  
15 come through for you guys?

16 MS. COOPER: It did. We just got it  
17 and got it opened.

18 MR. SATTERWHITE: Okay. Great.

19 A. Okay.

20 Q. Exhibit X is a series of text  
21 messages between you and Allison, is it Magee?

22 A. Magee.

23 Q. It's probably the more common way of  
24 pronouncing it, sure.

25 Your text messages are in blue and

1 R. LOMBARDO

2 hers are in gray; is that right?

3 A. Yes.

4 Q. Why do yours have the name Butch  
5 above them?

6 A. I actually did not know that either.  
7 I'm not sure. I must have been doing something  
8 with my phone and texting myself something  
9 where I store my own numbers at.

10 Q. Okay. So if I could direct your  
11 attention to the second page of the exhibit,  
12 which is page 149 of the document, on Sunday,  
13 October 13th, you texted her and said: So  
14 guess who just offered me a job the day I  
15 leave/get fired?

16 Her response is: LOL, was it Ethan?

17 And your reply is: EMSI.

18 Correct?

19 A. Correct.

20 Q. But that wasn't true, right?

21 A. Correct.

22 Q. What was the purpose in telling her  
23 that you had an offer from EMSI?

24 A. I think that was at the conference  
25 after I had my chat with him, I thought I would

1 R. LOMBARDO

2 be able to get a job there and I thought, like,  
3 his response indicated he would love to talk to  
4 me.

5 Q. Your next text says: I sure hope  
6 they fire me on Thursday.

7 The "they" in that sentence is  
8 Chmura, right?

9 A. Yep.

10 Q. Why did you hope to be fired?

11 A. Because everything that was going  
12 on, it was a very rough 2-week period for me.

13 Q. So at the time you sent this text --  
14 I'm so sorry. Go ahead.

15 A. I kind of wanted this all to come to  
16 an end. I was traveling the country going to  
17 all these conferences, knowing that it seemed  
18 like the company was planning on getting rid of  
19 me. It was pretty hurtful. I just wanted it  
20 all to end.

21 Q. So at the time you sent this text  
22 message to Ms. Magee, did you expect to  
23 continue your employment with Chmura?

24 A. Yes.

25 Q. If we go down to page 157 -- I'll

1 R. LOMBARDO

2 tell you which page of the document it is when  
3 I get there. It's page 10 of the exhibit. Can  
4 you see that?

5 A. Yes.

6 Q. The next-to-last text on the page  
7 says: Just let the attorney deal with it at  
8 this point. I have a call with EMSI at 6:00  
9 o'clock.

10 Was that the call you just described  
11 with Josh?

12 A. Yes.

13 Q. Did you have any other calls with  
14 EMSI during this period other than what you've  
15 already testified to?

16 A. No.

17 Q. If you flip over to the next page,  
18 Ms. Magee texts you: I don't understand how  
19 they have any grounds for that when it's just  
20 Eli's word.

21 And you may need to go back a page.  
22 But my question is, what is she talking about  
23 here, if you know?

24 A. I'm not sure.

25 Q. Your response is: 10 percent chance



1 R. LOMBARDO

2 he recorded me. Just my guess. If not, they  
3 are fucked.

4 What did you mean by that?

5 A. I'm not sure. I don't remember it  
6 without the context.

7 Q. You don't remember why you might  
8 have been concerned about whether Eli recorded  
9 you?

10 A. I'm not sure the context of this.

11 Q. So if we go down to page 182, on  
12 page 182, it looks like there are two identical  
13 texts from Ms. Magee dated November 19th asking  
14 you if they provided you a computer. Do you  
15 see that?

16 A. Yes.

17 Q. And then moving over to the next  
18 page -- well, let me ask this: Did you have  
19 any understanding of why Ms. Magee was asking  
20 you about the computer?

21 A. No.

22 Q. If you go on the next page, 183  
23 there, about the middle of the page, you say:  
24 Why do you ask? I actually told my attorney I  
25 would be happy to drop it off weeks ago, but

1 R. LOMBARDO

2 they told me to hold tight.

3 Do you see that?

4 A. Yes.

5 Q. Which attorney are you talking about  
6 here?

7 A. My previous attorney.

8 Q. What did your attorney tell you  
9 about holding onto the laptop or holding tight  
10 with respect to the laptop?

11 MS. COOPER: I'm going to object on  
12 the grounds of attorney-client privilege.

13 MR. SATTERWHITE: And we'd assert  
14 this is a subject matter waiver. Are you  
15 going to instruct him not to answer?

16 MS. COOPER: Unless we're limiting  
17 it to that specific topic, no.

18 Q. Okay. What did your attorney tell  
19 you about holding tight?

20 A. He just said hold tight. I told him  
21 I'd return the computer at any point. I sent  
22 him an email with that, sent him an email  
23 stating that, and told him I'd turn it over  
24 whenever. He said just hold tight.

25 Q. So did you understand at this point

1 R. LOMBARDO

2 that Chmura wanted its laptop back?

3 A. Well, according to my attorney, I  
4 guess.

5 (Plaintiff's Exhibit Y marked for  
6 identification.)

7 Q. All right. Processing Exhibit Y.  
8 Let me know when it comes up and you've had a  
9 chance to look at it.

10 A. Okay.

11 Q. Exhibit Y is a series of text  
12 messages between you and Kyle West, correct?

13 A. Yes.

14 Q. And just as with the previous  
15 exhibit, your texts are in blue or I think  
16 sometimes in green if you scroll down. His are  
17 in green, correct?

18 A. Yes.

19 Q. And I just want to ask you about the  
20 second text that you send over on the first  
21 page here. It starts out: Found out Wilson  
22 and I. Do you see that?

23 A. Yep.

24 Q. I think I can avoid reading it out  
25 loud.

1 R. LOMBARDO

2 What were you talking about in that  
3 text message?

4 A. I think that was either after a  
5 conversation with either Wilson or could have  
6 been after the conversation with Eli that I was  
7 told this is the way that the company is going  
8 now.

9 Q. And you're referring to the  
10 restructuring territory issues that we've been  
11 discussing, right?

12 A. Yes, sir.

13 Q. And what conversation did you have  
14 with Wilson?

15 A. He was in on that meeting that I was  
16 not a part of.

17 Q. Is this Wilson Cox?

18 A. Yes.

19 Q. What did he tell you about the  
20 meeting?

21 A. He told me that the team was picking  
22 their territories and this is the direction  
23 it's headed, and it's going to be implemented  
24 January 1st.

25 Q. Anything else?

1 R. LOMBARDO

2 A. Not that I can recall.

3 Q. Did you have any discussions with  
4 Wilson about what you would do if you were  
5 dissatisfied with the way Chmura treated you?

6 A. Not that I can recall.

7 (Plaintiff's Exhibit Z marked for  
8 identification.)

9 Q. I am displaying Exhibit Z, which  
10 should come up for you to be able to look  
11 through in just a few seconds. Take a look at  
12 that exhibit and tell me when you've had a  
13 chance to do so.

14 A. Okay.

15 Q. Exhibit Z is a series of text  
16 messages between you and Sarah Manfroni?

17 A. Yes.

18 Q. And remind me of her position at the  
19 company?

20 A. She's an account manager.

21 Q. And you worked with her in  
22 Cleveland?

23 A. Yes.

24 Q. And the same as with the other text  
25 messages we've been looking at, yours are in

1 R. LOMBARDO

2 blue, hers are in gray, right? Is that right?

3 A. Yeah, yeah.

4 Q. So starting on page N of the texts,  
5 it's the third page of the exhibit here, the  
6 one that says at the top: It's just a nail  
7 appointment downtown. Tell me when you see  
8 that.

9 A. I see that.

10 Q. So I'm trying to find a date  
11 reference. All of these are on October 3rd up  
12 until this point; is that correct?

13 A. Yes, I believe so.

14 Q. And at the bottom of this page, your  
15 next-to-last text says: I'm the only one that  
16 doesn't fall in line with what he has planned.

17 What are you referring to there?

18 A. For the new vertical alignment. I'm  
19 the only one that doesn't make out in that, I  
20 believe.

21 Q. And when you're talking about the  
22 "he" in that sentence, is that Mr. Auerbach or  
23 somebody else?

24 A. I believe Mr. Auerbach.

25 Q. And on the next page at the top, you

1 R. LOMBARDO

2 say: I'm actually fine with that. If they  
3 don't pay me, I will do everything I can to  
4 ruin this place.

5 Do you see that?

6 A. I do.

7 Q. And by "this place," you're  
8 referring to Chmura?

9 A. Yes.

10 Q. And when you say "I'm actually fine  
11 with that," what are you talking about that?

12 A. A buyout, the buyout that was  
13 referenced earlier in the text message, I would  
14 assume.

15 Q. So your statement here is if they  
16 don't pay me the buyout, you will do everything  
17 you can to ruin Chmura, correct?

18 A. That's the statement.

19 Q. If we go to the next page, page 12,  
20 if you look at your second-to-last text, you  
21 say: Oh, I can fuck them at any point. I will  
22 just call all my clients and tell them what  
23 they did and they should look at EMSI.

24 Do you see that?

25 A. I do.

1 R. LOMBARDO

2 Q. And the "them" in that sentence,  
3 you're referring to Chmura, right?

4 A. I assume so, yes.

5 Q. Is there anybody else that you think  
6 you might have been referring to other than  
7 Chmura in that text, Mr. Lombardo?

8 A. No, sir.

9 Q. So at this point, did you think that  
10 you would still be staying at Chmura at the  
11 time you sent this text?

12 A. I was hoping. I mean, like I said,  
13 I never really wanted to leave. I wanted  
14 things to continue to go on. I liked it there,  
15 but everything that was kind of going on at  
16 that point, it was a pretty emotional time,  
17 finding out that the whole sales team was  
18 maneuvering behind my back. I'm the only one  
19 left out of this. I was the one there the  
20 longest, and I was left out of everything. It  
21 was a pretty rough time for me.

22 Q. All right. Turning to page 14, this  
23 is dated October 17th. And there's a text from  
24 you that says: So Eli and I talked this  
25 morning. Do you see that?



1 R. LOMBARDO

2 A. Yes.

3 Q. That's the conversation you and Eli  
4 had that you've already testified about, right?

5 MS. COOPER: Objection. What  
6 conversation? There were multiple  
7 conversations with --

8 MR. SATTERWHITE: You can just  
9 object to the form, and I'll be happy to  
10 rephrase it if he doesn't understand it.

11 Q. Do you understand my question,  
12 Mr. Lombardo?

13 A. Yes.

14 Q. So what's the answer to my question?

15 A. Yeah. Like I said, we had multiple  
16 conversations of him kind of coming over to my  
17 desk and leaving and coming over to my desk and  
18 leaving. So one of those, I would presume.

19 Q. And her response, Ms. Manfroni's  
20 response is: So now they're not getting rid of  
21 you? That makes no sense. You can't threaten  
22 someone's job like that and then be, like, oh,  
23 just kidding. What are you going to do?

24 Your response is: Oh, no, I am  
25 still gone, but they need to figure out if they

1 R. LOMBARDO

2 are going to pay me and I go peacefully or they  
3 fire me and try to deal with the consequences.

4 Do you see that?

5 A. I do.

6 Q. So as of this point, Thursday,  
7 October 17th at 8:41 a.m., you knew that your  
8 employment with Chmura was ending, correct?

9 A. No.

10 Q. What did you mean by "oh, no, I am  
11 still gone"?

12 A. I mean, I assumed that something was  
13 going to happen, but I was not sure.

14 Q. Well, this says: I'm still gone,  
15 but they need to figure out if they're going to  
16 pay me and I go peacefully or they fire me and  
17 deal with the consequences.

18 Doesn't this mean that you believed  
19 your employment was going to end one way or the  
20 other?

21 A. I'm not sure. I don't recall  
22 exactly what I was thinking or feeling when  
23 that text was done.

24 Q. But you wrote it?

25 A. Yes.

1 R. LOMBARDO

2 Q. What did you mean by "consequences"?

3 A. As I stated, I was going to go after  
4 my overtime wages I believed I was entitled to.  
5 I didn't --

6 Q. Does that appear anywhere in your  
7 text messages with Ms. Manfroni, this notion of  
8 overtime that you know of?

9 A. No, not that I see.

10 Q. So if we go over to page 16, at  
11 11:43 a.m., Ms. Manfroni says: They're turning  
12 off your Salesforce.

13 And your reply is: They already did  
14 and my email.

15 Do you see that?

16 A. Yes.

17 Q. And she says: If you want a report  
18 of your clients, I will run one for you. Do  
19 you see that?

20 A. Yes.

21 Q. And your response is: I'm good  
22 there. What did you mean by that?

23 A. I'm not sure.

24 Q. Did it mean that you were good there  
25 because you already had a client list

1 R. LOMBARDO

2 somewhere?

3 A. No.

4 Q. Then what did it mean?

5 A. I'm not sure.

6 Q. You then say: But I might need your  
7 Salesforce to pull my sales numbers for me --  
8 I'm sorry, over time for my next job.

9 Do you see that?

10 A. Yeah.

11 Q. Did you ever ask anyone to do that  
12 for you?

13 A. Yes.

14 Q. Who?

15 A. I asked Wilson Cox.

16 Q. And did he ultimately do it?

17 A. No.

18 Q. Did you ask anybody else?

19 A. No.

20 Q. Did you at any time after your  
21 employment with Chmura ended ever receive from  
22 any source a copy of your, quote, sales numbers  
23 over time?

24 A. No.

25

1 R. LOMBARDO

2 (Plaintiff's Exhibit AA marked for  
3 identification.)

4 Q. Mr. Lombardo, I'm showing you  
5 Exhibit AA, which should be coming through for  
6 you. And we talked about this document, but I  
7 just want to get it into the record. Tell me  
8 when you've had a chance to look at it.

9 A. Okay. I'm familiar with this.

10 Q. Exhibit AA is the letter you  
11 received from this law firm at the beginning of  
12 this dispute, right?

13 A. Yes, sir.

14 Q. And you received it on or around  
15 October 21st?

16 A. Yes, I believe so.

17 Q. All right. And if I could just  
18 direct your attention to page 3 of the letter,  
19 I have one quick question, if I can make this  
20 work. Nope. Well, I'll do it the hard way,  
21 then.

22 Do you see this top paragraph on  
23 page 3 of the letter has a number of clauses  
24 with Roman numerals in them?

25 A. I do.

1 R. LOMBARDO

2 Q. Okay. Can you direct your attention  
3 to Roman numeral IV. It says: Confirms that  
4 you have returned all company property and have  
5 no company information in your possession.

6 A. Yes.

7 Q. What did you understand that to  
8 mean?

9 MS. COOPER: Objection as to form.

10 A. Return any of their -- any of the  
11 stuff that I have.

12 Q. And did you understand that to  
13 include the laptop?

14 A. Yes.

15 Q. Do you know when your counsel  
16 actually returned Chmura's laptop?

17 A. I do not know the exact date.

18 Q. Do you know if it was before or  
19 after Chmura filed a lawsuit?

20 A. I do not know.

21 (Plaintiff's Exhibit Number BB  
22 marked for identification.)

23 Q. All right. You should have in front  
24 of you Exhibit BB. This is bravo bravo. Tell  
25 me when you've had a chance to look at that.

1 R. LOMBARDO

2 Exhibit BB is a copy of some text  
3 messages between you and Wilson Cox, correct?

4 A. Correct.

5 Q. And it's the same format as the  
6 other texts we've been looking at: yours are  
7 in blue and his are in gray, correct?

8 A. Correct.

9 Q. If I could direct your attention  
10 over to the page that's got a 42 at the bottom,  
11 it's the third page of the exhibit. Do you see  
12 the texts that begin on Monday, October 28th,  
13 at 5:48 p.m.?

14 A. Uh-huh, I do.

15 Q. There's a text from you to him  
16 saying: Hey, can we connect at some point to  
17 get my sales numbers. I'm going to start to  
18 put my resume together.

19 Do you see that?

20 A. Uh-huh, I do.

21 Q. This was approximately 1 week after  
22 you received the letter from our law firm that  
23 we just reviewed, correct?

24 A. Correct.

25 Q. And you're asking to connect with

1 R. LOMBARDO

2 Mr. Cox in order to obtain sales numbers  
3 relating to your work at Chmura; is that  
4 correct?

5 A. Yes.

6 Q. Did you ultimately meet with Mr. Cox  
7 or connect with him?

8 A. No.

9 Q. Why not?

10 A. I'm not sure.

11 Q. So he never got you a copy of your  
12 sales numbers?

13 A. No.

14 Q. Did anybody else?

15 A. No.

16 Q. The next page involves texts  
17 relating to scheduling. Do you see where I'm  
18 talking about?

19 A. Yes.

20 Q. And he says at 5:51 p.m.: Yep, I'll  
21 put it on my calendar now. And then he adds,  
22 personal calendar, LOL.

23 Do you see that?

24 A. Yes.

25 Q. And you said: Yeah, not the best



1 R. LOMBARDO

2 for Outlook.

3 Why did you say that?

4 A. I don't think management wanted  
5 anyone there to even talk to me.

6 Q. Were you concerned at all about the  
7 fact that you were asking Mr. Cox to bring you  
8 information from Chmura?

9 A. I was not.

10 (Plaintiff's Exhibit CC marked for  
11 identification.)

12 Q. Okay. Showing you what's been  
13 marked as Exhibit CC, tell me when you've had a  
14 chance to look at it.

15 A. Yes.

16 Q. Exhibit CC is a document that you  
17 provided to Neva Recruiting in conjunction with  
18 your resume and job search; is that correct?

19 A. Yes.

20 Q. Where did you get this document?

21 A. I had that myself from 2017. It was  
22 from Salesforce.

23 Q. Where physically was it?

24 A. It was in a folder of paper  
25 documents from 2017.

1 R. LOMBARDO

2 Q. Where was the folder?

3 A. At my house.

4 Q. What else was in the folder?

5 A. These three -- these documents here,  
6 some numbers from my last job and then numbers  
7 from my job before that.

8 Q. This document, Exhibit CC, shows the  
9 volume for all Chmura account managers; is that  
10 correct?

11 A. Correct.

12 Q. And then it's broken down by  
13 individual account manager, right?

14 A. Yes.

15 Q. So it also shows the total revenue  
16 figures for the company?

17 A. No.

18 Q. Is it possible to derive the total  
19 revenue figures for the company by adding up  
20 the total sales for each of its account  
21 managers?

22 A. No.

23 Q. Why not?

24 A. There's other aspects of the  
25 business.

1 R. LOMBARDO

2 Q. Is it possible to derive the total  
3 revenue from the sales of JobsEQ from this  
4 document?

5 MS. COOPER: Objection. No scope  
6 assignment question.

7 Q. You can answer.

8 A. Can you ask the question one more  
9 time? I apologize.

10 Q. Sure. Is it possible to determine  
11 the total sales or total revenue associated  
12 with JobsEQ from this document?

13 A. I don't think so.

14 Q. Why not?

15 A. There would be other products in  
16 there as well.

17 Q. When you sent this document to Neva  
18 Recruiting, did you ask them not to disclose it  
19 to any third parties?

20 A. No, I don't believe I did.

21 Q. Did you take any steps to ensure  
22 that it wasn't disclosed to any further third  
23 parties?

24 A. I did not.

25 Q. Do you know to whom Neva Consulting

1 R. LOMBARDO

2 disclosed this document?

3 A. I believe it was SharpCloud.

4 Q. Are they a software company?

5 A. Yes.

6 Q. And do you know if when they  
7 disclosed the document to SharpCloud, they  
8 asked SharpCloud to keep it confidential?

9 A. I do not know that.

10 Q. Did you send this document to anyone  
11 other than Neva Recruiting after your  
12 termination?

13 A. No.

14 Q. Did you take any steps to determine  
15 whether disclosing this document would violate  
16 your confidentiality agreement?

17 A. No.

18 Q. Mr. Lombardo, at any time before  
19 your separation from Chmura, did you tell any  
20 clients that you were considering leaving the  
21 company?

22 A. No. Not to my knowledge.

23 Q. Before you left the company, did you  
24 suggest to any clients that you were  
25 dissatisfied at Chmura?

1 R. LOMBARDO

2 A. No.

3 Q. Have you had any contact with Chmura  
4 clients since your termination?

5 A. No.

6 Q. Where are you currently working?

7 A. I'm currently unemployed.

8 Q. Are you furloughed or permanently  
9 laid off, to your knowledge?

10 A. Permanently laid off, to my  
11 knowledge. I was selling software in the  
12 hospitals, which wasn't doing so great the last  
13 month and a half.

14 Q. Sure. What company were you working  
15 for?

16 A. Complion.

17 Q. And you said that was software  
18 sales?

19 A. Yes.

20 Q. When did you start working for them?

21 A. January 6th.

22 Q. And when was your last day?

23 A. I believe April 7th.

24 Q. Did you have a written employment  
25 agreement with Complion?

1 R. LOMBARDO

2 A. I believe so.

3 Q. What was your compensation while you  
4 were there?

5 A. It was a base of 65,000 and then  
6 commissions.

7 Q. What was your commission percentage?

8 A. It changed to 6 percent overall.

9 Q. 6?

10 A. Yes.

11 Q. And what was it before it was  
12 changed to 6?

13 A. It got changed on like my fourth day  
14 there, so I'm not exactly sure. It was a  
15 tiered structure based on how much you sell.  
16 If you -- I don't know. These are madeup  
17 numbers. If you sell 200,000, you get  
18 5 percent. Sell 400,000, 7 percent. The  
19 percentage went up with the more you sold.

20 Q. What kind of software was it?

21 A. Regulatory compliance software for  
22 medical research centers for hospitals.

23 Q. Had you started to look for any  
24 other jobs before you were laid off on  
25 April 7th?

1 R. LOMBARDO

2 A. Yeah.

3 Q. Why?

4 A. A lot of things changed at the  
5 company, at Complion when I started. My hiring  
6 manager, he was the one who I did all my  
7 interviews with, he was removed from the sales  
8 manager role the first week that I was there.  
9 I was also told during interviews I was  
10 replacing somebody that was doing so well in  
11 the biz market that they moved him to  
12 enterprise. And they walked me through kind of  
13 how to move throughout the organization, that I  
14 could get to the enterprise level within  
15 6 months, and that's where you could make X, Y,  
16 and Z.

17 I found out after a few weeks there,  
18 he never sold anything. The company in general  
19 had not made any significant sales over 10,000  
20 in the last, you know, 4 to 6 months. So a lot  
21 of things that I was told during the interview  
22 ended up not being true.

23 Q. Can you approximate your total  
24 compensation that you received from Complion  
25 while you were there?

1 R. LOMBARDO

2 A. I was making \$65,000 a year,  
3 whatever divided by, you know, a fourth of  
4 that. I was also getting a \$2,000 a month  
5 ramp-up bonus for the first 6 months there.

6 Q. Did you earn any actual commissions  
7 under the program?

8 A. No.

9 Q. Who is Jennifer Ludwig?

10 A. She was an account manager at  
11 Chmura.

12 Q. In Cleveland?

13 A. In Richmond.

14 Q. Did you ever meet her?

15 A. Not in person.

16 Q. Talk to her on the phone?

17 A. Yes.

18 Q. How many times?

19 A. I'm not sure.

20 Q. Did you ever discuss compensation or  
21 overtime pay with her?

22 A. No, not to my knowledge.

23 Q. Do you have any personal knowledge  
24 of her compensation?

25 A. No.



1 R. LOMBARDO

2 Q. Do you have any personal knowledge  
3 of her employment status at Chmura?

4 A. Currently?

5 Q. At any time.

6 A. I'm not sure what you mean by that  
7 question. I knew when we hired her and when  
8 she left. I don't know if that's what you  
9 meant.

10 Q. Let me rephrase it.

11 Do you have any knowledge whether  
12 she was a Chmura employee or an independent  
13 contractor at the time she performed services  
14 for Chmura?

15 A. No.

16 Q. Did you ever discuss her  
17 compensation or her entitlement to overtime  
18 with anyone at Chmura?

19 A. No.

20 Q. Did you ever hear anyone else  
21 discuss those subjects?

22 A. Not to my knowledge.

23 Q. Did you discuss whether or not  
24 Jennifer Ludwig was entitled to overtime?

25 A. Not that I can remember.

1 R. LOMBARDO

2 MR. SATTERWHITE: Why don't we take  
3 a short break, Christine. I'll look over  
4 my notes, figure out where we go from here.

5 MS. COOPER: Sounds good. Do you  
6 want to take 5, 10?

7 MR. SATTERWHITE: Let's take 10.

8 MS. COOPER: Thanks, Rod.

9 (A short break was taken.)

10 MR. SATTERWHITE: Back on the  
11 record, Rachel. We don't have any other  
12 questions for Mr. Lombardo at this time.

13 MS. COOPER: Oh. Well, that's a  
14 surprise. Thank you. He will read.

15 (Witness excused, 3:40.)

16  
17 -----  
18 RICHARD A. LOMBARDO

19  
20 Subscribed and sworn to before me  
21 this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

1 R. LOMBARDO

2 C E R T I F I C A T E

3 STATE OF ILLINOIS )  
4 ) ss.:  
COUNTY OF COOK )

5 I, RACHEL F. GARD, CSR, RPR, CLR, CRR,  
6 within and for the State of Illinois do hereby  
7 certify:

8 That RICHARD LOMBARDO, the witness whose  
9 deposition is hereinbefore set forth, was  
10 duly sworn by me and that such deposition  
11 is a true record of the testimony given by  
12 such witness.

13 I further certify that I am not  
14 related to any of the parties to this  
15 action by blood or marriage; and that I am  
16 in no way interested in the outcome of this  
17 matter.

18 IN WITNESS WHEREOF, I have hereunto  
19 set my hand this 6th day of May, 2020.

20   
21 \_\_\_\_\_

22 RACHEL F. GARD, CSR, RPR, CLR, CRR  
23  
24  
25